

2005

SESSION LAWS

OF THE

STATE OF WASHINGTON

REGULAR SESSION
FIFTY-NINTH LEGISLATURE
Convened January 10, 2005. Adjourned April 24, 2005.



Published at Olympia by the Statute Law Committee under
Chapter 6, Laws of 1969.

DENNIS W. COOPER
Code Reviser

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

WASHINGTON SESSION LAWS

GENERAL INFORMATION

1. EDITIONS AVAILABLE.

(a) *General Information.* The session laws are printed successively in two editions:

(i) a temporary pamphlet edition consisting of a series of one or more paper bound books, which are published as soon as possible following the session, at random dates as accumulated; followed by

(ii) a permanent hardbound edition containing the accumulation of all laws adopted in the legislative session. Both editions contain a subject index and tables indicating Revised Code of Washington sections affected.

(b) *Where and how obtained - price.* Both the temporary and permanent session laws may be ordered from the Statute Law Committee, Pritchard Building, P.O. Box 40552, Olympia, Washington 98504-0552. The temporary pamphlet edition costs \$21.68 per set (\$20.00 plus \$1.68 for state and local sales tax at 8.4%). The permanent edition costs \$37.94 per volume (\$35.00 plus \$2.94 for state and local sales tax at 8.4%). All orders must be accompanied by payment.

2. PRINTING STYLE - INDICATION OF NEW OR DELETED MATTER

Both editions of the session laws present the laws in the form in which they were enacted by the legislature. This style quickly and graphically portrays the current changes to existing law as follows:

(a) In amendatory sections

(i) underlined matter is new matter.

(ii) deleted matter is (~~lined out and bracketed between double parentheses~~).

(b) Complete new sections are prefaced by the words NEW SECTION.

3. PARTIAL VETOES

(a) Vetoed matter is *printed in bold italics*.

(b) Pertinent excerpts of the governor's explanation of partial vetoes are printed at the end of the chapter concerned.

4. EDITORIAL CORRECTIONS.

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

5. EFFECTIVE DATE OF LAWS

(a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 2005 regular session to be July 24, 2005 (midnight July 23rd).

(b) Laws that carry an emergency clause take effect immediately upon approval by the Governor.

(c) Laws that prescribe an effective date take effect upon that date.

6. INDEX AND TABLES

A cumulative index and tables of all 2005 laws may be found at the back of the final pamphlet edition and the permanent hardbound edition.

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
285	ESHB 1703	Unclaimed property act—Fare cards	1087
286	SHB 1719	School district bidding requirements	1089
287	HB 1771	School meal programs	1091
288	SHB 1854	Driving privilege—Revocation	1094
289	SHB 1887	Litter tax	1101
290	HB 2064	Juvenile courts—Jurisdiction	1102
291	EHB 2254	Health care providers—Quality improvement committees	1104
292	SHB 2304	Medical assistance—Debt recovery	1110
293	ESSB 5470	Prescription drugs—Nondomestic wholesalers	1115
294	ESHB 2171	Growth management—Financial assistance	1116
295	ESHB 1397	Motor vehicle emissions standards	1120
296	2SSB 5916	Clean alternative fuel vehicles—Tax incentives	1125
297	ESB 6003	Commute trip reduction tax credit	1127
298	ESHB 1062	Energy efficiency	1130
299	SHB 1895	Energy efficiency—Government entities	1139
300	SSB 5101	Renewable energy industries—Tax credits	1141
301	E2SSB 5111	Solar energy—Tax credits	1145
302	2SSB 5782	Linked deposit program	1148
303	ESSB 5396	Habitat conservation programs	1151
304	ESSB 5432	Oil spill advisory council	1169
305	ESB 5381	Academy of sciences	1174
306	E2SHB 1605	Soil contamination—Children's exposure	1176
307	E2SHB 1896	Geoducks—Hood canal	1178
308	ESB 5355	Salmon and steelhead recovery	1179
309	SSB 5610	Salmon recovery	1181
310	ESSB 5620	Open space priorities	1190
311	SHB 1181	Transportation—Overweight sealed containers	1191
312	SHB 1179	High-occupancy toll lanes	1192
313	PV ESSB 6091	Transportation funding	1213
314	ESSB 6103	Transportation revenue—Fuel tax	1268
315	ESHB 2311	Transportation funding—Bonds	1297
316	ESSB 5121	Aviation planning council	1299
317	SHB 1541	Transportation innovative partnerships program	1301
318	SHB 2124	Office of transit mobility	1312
319	PV ESB 5513	Transportation agencies—Restructuring	1315
320	HB 1002	Motor vehicles—Compression brakes	1369
321	HB 1128	Fish and wildlife enforcement code—Infractions	1371
322	SHB 1185	Personal wireless numbers—Disclosure	1372
323	EHB 1241	Motor vehicles—Registration	1374
324	HB 1247	Manufactured housing communities—Water-sewer connections	1378
325	SHB 1266	Commercial drivers—Transit operators—Drug and alcohol test reporting	1380
326	HB 1315	Real estate excise tax—Information disclosure	1388
327	HB 1330	Public employment retirement systems	1392
328	2SHB 1565	Multimodal transportation strategies	1403
329	HB 1864	Toll charges—Citizens advisory committee	1406
330	SHB 1995	Capitol campus—Public and historic facilities	1406
331	HB 1999	Traffic infractions—Vehicle title, identification	1410

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
332	SSB	5052 Uniform estate tax apportionment	1411
333	2SSB	5056 Department of archaeology and historic preservation	1418
334	ESB	5110 Executive board of regional transportation planning—Port district members	1428
335	PV SSB	5139 Highway and bridge tolling authority.	1428
336	PV SSB	5177 Transportation benefit districts.	1434
337	SB	5196 Insurance—Employer-owned life insurance	1446
338	SSB	5266 Financial transactions—State regulation	1450
339	SB	5274 Real estate appraisers	1450
340	SB	5321 Motor vehicle owners—Address disclosure.	1466
341	SSB	5414 Aviation fees and taxes.	1468
342	ESB	5418 Credit reporting agencies—Security freeze	1471
343	SB	5518 Licensing—Subagents' fees	1474
344	SB	5582 Sexually violent predators—Change in demographic factors	1477
345	ESB	5583 Abuse of adolescents—Staff training.	1480
346	SSB	5631 Correctional industries	1481
347	SB	5898 Postpartum depression—Public information campaign.	1486
348	ESSB	5997 Banks—Reciprocal de novo bank branching	1487
349	SSB	5951 Public disclosure—Horse racing licenses	1494
350	ESSB	5952 Trams—Licensing exemption	1501
351	SSB	5953 Horse racing—Handicapping contests	1504
352	SSB	6022 Public construction bonds—Surety bonds	1504
353	SHB	1791 Developmental disabilities community trust account.	1506
354	SHB	2085 Waste tires	1514
355	SB	5254 Legislative youth advisory council.	1517
356	SSB	5828 Digital learning programs.	1519
357	SSB	5902 Small business innovation research assistance program	1521
358	SB	5127 Human trafficking—Victims' services	1522
359	SSB	5182 Cemeteries—Multiple interment spaces.	1524
360	ESSB	5186 Physical activity promotion	1525
361	SSB	5242 Inmates—Weapon possession	1535
362	SSB	5256 Sentencing—Probationer risk assessment	1536
363	SB	5522 Public employees' retirement—Service credits	1541
364	ESSB	5577 Landlord-tenant—Relocation assistance	1541
365	SSB	5752 Funeral directors—Cemeteries	1548
366	SSB	5939 Identity theft—Police reports	1597
367	SB	5948 Unclaimed property	1598
368	SSB	6043 Personal information—Notice of security breaches.	1601
369	ESHB	1031 Problem gambling	1605
370	ESHB	1044 Pension funding methodology	1609
371	SHB	1058 Mental health—Minors	1614
372	PV HB	1270 LEOFF retirement—Reemployment	1618
373	SHB	1313 Background checks—Park employees—Fingerprinting	1619
374	ESHB	1314 Domestic violence prevention account.	1622
375	HB	1364 Nursing homes—Temporary managers—Liability	1626
376	SHB	1756 Fire departments	1627
377	ESHB	1830 Capital projects advisory review board	1636
378	E2SHB	1888 Phishing	1638
379	SHB	1951 Public schools—Vision testing.	1641

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
380	HB	2101 Sex offenders—School notification	1642
381	ESHB	2126 Crime victims—Dependent persons.	1652
382	HB	2282 Adult corrections—Offender property.	1655
383	SHB	2289 Rural hospitals—Medical assistance	1656
384	2SHB	1970 Government accountability	1657
385	PV ESHB	1064 Government accountability—Citizen advisory board	1659
386	ESHB	1242 Biennial budget—Priorities—Review of agency requests.	1665
387	SHB	1856 Industrial insurance—Audits	1671
388	ESHB	2266 Methamphetamine—Sale of ephedrine, pseudoephedrine, and phenylpropanolamine	1673
389	HB	2189 Child protective services—Staff safety	1681
390	PV SHB	1711 Parking—Persons with disabilities.	1681
391	SB	5707 Women's history consortium	1688
392	SSB	5145 Boating safety education	1690
393	SSB	5664 Teacher training—Salary schedule—Courses on student learning differences	1696
394	ESSB	5788 Recyclable materials—Transporters	1697
395	SB	6033 Dungeness crab pot buoy tag programs	1701
396	HB	1108 Rules of the road—Passing pedestrians, bicyclists	1702
397	HB	1110 Pesticide applicators—Recertification standards.	1703
398	HB	1124 Highways—Signs, banners	1704
399	SHB	1393 Mobile homes—Safety standards—Inspections—Notice	1706
400	ESHB	1402 Offender supervision—Interstate travel.	1710
401	SHB	1406 Specialized forest products permits	1715
402	SHB	1408 Individual development accounts.	1723
403	SHB	1426 Incarcerated parents—Services to children	1728
404	PV SHB	1463 Meningococcal disease—Student, parent information.	1729
405	HB	1690 Health care services—Taxes	1731
406	ESHB	1696 Fish and wildlife—Penalties	1733
407	SHB	1798 Motorist information signs.	1738
408	PV ESHB	1799 Public recreational lands and public safety—Task force.	1740
409	SHB	1847 Statute law committee	1742
410	EHB	1917 Industrial insurance—Premium rates	1744
411	EHB	2185 Industrial insurance—Residence modifications.	1745
412	ESHB	2309 Water rights—Fees.	1746
413	SSB	5038 Rules of the road—Stationary emergency vehicles	1750
414	SB	5039 Milk or milk products.	1752
415	SSB	5085 Child passenger safety	1753
416	SSB	5169 Biotoxin testing and monitoring—Funds.	1755
417	ESSB	5308 Child abuse—Reporting	1756
418	SSB	5227 Wildlife harvest reports	1760
419	SSB	5290 Livestock—Theft—Damage	1761
420	2SSB	5663 Cereal grains and grass grown for seed—Tax exemption	1762
421	SSB	5899 Background checks.	1764
422	SSB	6014 Industrial insurance—Disaster response	1773
423	EHB	2241 Growth management act—Recreational land.	1774
424	E2SSB	5581 Life sciences research.	1782
425	ESHB	1903 Job development fund	1805
426	HB	1254 License plates—Share the road	1808

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
427	2SSB	5370 Economic development strategic reserve account	1813
428	PV SHB	1823 Underserved rural communities—Underground storage tanks	1814
429	ESHB	1640 Manufactured/mobile home landlord and tenant disputes . . .	1817
430	SHB	2156 Children in child protective services—Task force	1822
431	SHB	1478 Failure to secure a load	1824
432	HB	1034 Insurance—Administrative supervision	1828
433	SHB	1054 Uniform arbitration act	1833
434	HB	1081 Law enforcement applicants—Psychological examinations— Polygraph tests	1854
435	PV HB	1136 Electronic monitoring	1858
436	SHB	1147 Sex offenders—Community protection zones	1861
437	EHB	1187 Juvenile offenders—Sentencing	1872
438	2SHB	1188 State patrol—Wage negotiations	1873
439	SHB	1280 Kinship care oversight committee	1875
440	SHB	1281 Kinship care—Medical care	1876
441	EHB	1561 Life insurance—Travel	1878
442	HB	1386 Historical documents—Surcharge	1878
443	SHB	1299 Tax preferences—Outdated preferences repealed	1879
444	HB	1469 Commercial motor vehicle violations—Penalty recovery . . .	1885
445	ESSB	5034 Campaign funding	1886
446	SHB	1512 State-purchased health care—Performance measures	1903
447	HB	1533 Hospitals—Inspections, surveys	1906
448	ESHB	1539 Transmission pipelines—Excavator notice requirements . . .	1907
449	ESHB	1631 Conservation futures	1911
450	ESSB	6050 City-county assistance account	1912
451	SSB	5615 LEOFF retirement—Disability allowance	1915
452	SHB	1681 Criminal background check processes—Task force	1917
453	SHB	1687 Firearms—Limits on possession rights	1919
454	SHB	1689 Dentistry—Dental residency programs—Licensing	1929
455	HB	1837 Child witnesses	1931
456	EHB	1848 Multiunit residential buildings	1934
457	E2SSB	5454 Courts—Funding	1948
458	SHB	1934 Projectile stun guns—Assault of a peace officer— Committee	1959
459	SHB	1936 Public employees retirement—Emergency medical technicians	1972
460	E2SHB	2015 Drug offender sentencing alternative	1980
461	2SHB	2212 Educator certification	1984
462	SSB	5841 Asthma	1986
463	SSB	5708 Epinephrine—Emergency medical technicians	1989
464	ESSB	5699 Aquatic invasive species	1990
465	ESB	5049 Landlord-tenant act—Mold information	1993
466	ESB	5094 Conservation districts—Special assessments	1996
467	ESSB	5140 Surplus campaign funds—Disposition	1998
468	ESSB	5158 Medical records—Disclosure	1999
469	ESSB	5285 Water quality joint development act	2006
470	SSB	5492 Health care practitioner restrictions—Reporting	2011
471	SSB	5692 Tax refund anticipation loans	2014
472	SB	5733 Mandatory arbitration	2017

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
473	ESSB	5806 Child care providers	2017
474	ESSB	5872 Social and health services—Delivery to children and families—Task force	2022
475	SSB	5992 Industrial insurance—Second injury fund	2024
476	SSB	5999 Business and occupation tax—Parking and business improvement areas	2025
477	SSB	6037 Growth management act—Public facilities—Recreational use	2026
478	SHB	2081 Hood canal—Aquatic rehabilitation zone	2031
479	ESHB	2097 Hood canal rehabilitation	2033
480	2SHB	1240 Real estate excise tax	2035
481	SHB	1304 Animal cruelty—Animal fighting	2038
482	ESHB	1635 Ambulance service	2040
483	2SHB	1758 Public disclosure	2043
484	PV E2SHB	2163 Homeless housing and assistance	2046
485	SSB	5767 Homeless housing task force	2059
486	HB	2170 Real estate excise tax—Common schools—General fund. . .	2060
487	ESHB	2299 General obligation bonds	2061
488	PV ESSB	6094 Capital budget	2065
489	HB	1066 Learning assistance program distribution formula	2263
490	E2SHB	1152 Early learning council	2264

CHAPTER 285

[Engrossed Substitute House Bill 1703]

UNCLAIMED PROPERTY ACT—FARE CARDS

AN ACT Relating to fare cards for transportation facilities and services; and amending RCW 63.29.010 and 63.29.190.

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

Sec. 1. RCW 63.29.010 and 2004 c 168 s 13 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Department" means the department of revenue established under RCW 82.01.050.

(2) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

(3) "Attorney general" means the chief legal officer of this state referred to in chapter 43.10 RCW.

(4) "Banking organization" means a bank, trust company, savings bank, land bank, safe deposit company, private banker, or any organization defined by other law as a bank or banking organization.

(5) "Business association" means a nonpublic corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.

(6) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

(7) "Fare card" means any pass or instrument, and value contained therein, purchased to utilize public transportation facilities or services. "Fare card" does not include "gift card" or "gift certificate" as those terms are defined in RCW 19.240.010.

(8) "Financial organization" means a savings and loan association, cooperative bank, building and loan association, or credit union.

~~((8))~~ (9) "Gift certificate" has the same meaning as in RCW 19.240.010.

~~((9))~~ (10) "Holder" means a person, wherever organized or domiciled, who is:

- (a) In possession of property belonging to another,
- (b) A trustee, or
- (c) Indebted to another on an obligation.

~~((10))~~ (11) "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety, and wage protection insurance.

~~((11))~~ (12) "Intangible property" does not include contract claims which are unliquidated but does include:

- (a) Moneys, checks, drafts, deposits, interest, dividends, and income;

(b) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances, but does not include discounts which represent credit balances for which no consideration was given;

(c) Stocks, and other intangible ownership interests in business associations;

(d) Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(e) Liquidated amounts due and payable under the terms of insurance policies; and

(f) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

~~((42))~~ (13) "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.

~~((43))~~ (14) "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or his legal representative.

~~((44))~~ (15) "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

~~((45))~~ (16) "State" means any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.

~~((46))~~ (17) "Third party bank check" means any instrument drawn against a customer's account with a banking organization or financial organization on which the banking organization or financial organization is only secondarily liable.

~~((47))~~ (18) "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

Sec. 2. RCW 63.29.190 and 1993 c 498 s 8 are each amended to read as follows:

(1) Except as otherwise provided in subsections (2) and (3) of this section, a person who is required to file a report under RCW 63.29.170 shall pay or deliver to the department all abandoned property required to be reported at the time of filing the report.

(2)(a) Counties, cities, towns, and other municipal and quasi-municipal corporations that hold funds representing warrants canceled pursuant to RCW 36.22.100 and 39.56.040, uncashed checks, excess proceeds from property tax and irrigation district foreclosures, and property tax overpayments or refunds may retain the funds until the owner notifies them and establishes ownership as provided in RCW 63.29.135. Counties, cities, towns, or other municipal or quasi-municipal corporations shall provide to the department a report of property it is holding pursuant to this section. The report shall identify the property and

owner in the manner provided in RCW 63.29.170 and the department shall publish the information as provided in RCW 63.29.180.

(b)(i) A public transportation authority that holds funds representing value on abandoned fare cards may retain the funds until the owner notifies the authority and establishes ownership as provided in RCW 63.29.135.

(ii) For the purposes of this subsection (2)(b), "public transportation authority" means a municipality, as defined in RCW 35.58.272, a regional transit authority authorized by chapter 81.112 RCW, a public mass transportation system authorized by chapter 47.60 RCW, or a city transportation authority authorized by chapter 35.95A RCW.

(3) The contents of a safe deposit box or other safekeeping repository presumed abandoned under RCW 63.29.160 and reported under RCW 63.29.170 shall be paid or delivered to the department within six months after the final date for filing the report required by RCW 63.29.170.

If the owner establishes the right to receive the abandoned property to the satisfaction of the holder before the property has been delivered or it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property to the department, and the property will no longer be presumed abandoned. In that case, the holder shall file with the department a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

(4) The holder of an interest under RCW 63.29.100 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the department. Upon delivery of a duplicate certificate to the department, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability of every kind in accordance with RCW 63.29.200 to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the department, for any losses or damages resulting to any person by the issuance and delivery to the department of the duplicate certificate.

Passed by the House March 11, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 4, 2005.

Filed in Office of Secretary of State May 4, 2005.

CHAPTER 286

[Substitute House Bill 1719]

SCHOOL DISTRICT BIDDING REQUIREMENTS

AN ACT Relating to school district bidding requirements; and amending RCW 28A.335.190.

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

Sec. 1. RCW 28A.335.190 and 2000 c 138 s 201 are each amended to read as follows:

(1) When, in the opinion of the board of directors of any school district, the cost of any furniture, supplies, equipment, building, improvements, or repairs, or other work or purchases, except books, will equal or exceed the sum of fifty thousand dollars, complete plans and specifications for such work or purchases

shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids (~~(therefor)~~) and that specifications and other information may be examined at the office of the board or any other officially designated location: PROVIDED, That the board without giving such notice may make improvements or repairs to the property of the district through the shop and repair department of such district when the total of such improvements or repair does not exceed the sum of (~~((a) fifteen)~~) forty thousand dollars (~~(; for districts with fifteen thousand five hundred or more full-time equivalent students; or (b) for districts with fewer than fifteen thousand five hundred full-time equivalent students, fifteen thousand dollars if more than one craft or trade is involved with the school district improvement or repair, or ten thousand dollars if a single craft or trade is involved with the school district improvement or repair)~~). The cost of any public work, improvement or repair for the purposes of this section shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. The bids shall be in writing and shall be opened and read in public on the date and in the place named in the notice and after being opened shall be filed for public inspection.

(2) Every purchase of furniture, equipment or supplies, except books, the cost of which is estimated to be in excess of (~~(fifteen)~~) forty thousand dollars, shall be on a competitive basis. The board of directors shall establish a procedure for securing telephone and/or written quotations for such purchases. Whenever the estimated cost is from (~~(fifteen)~~) forty thousand dollars up to (~~(fifty)~~) seventy-five thousand dollars, the procedure shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal. Whenever the estimated cost is in excess of (~~(fifty)~~) seventy-five thousand dollars, the public bidding process provided in subsection (1) of this section shall be followed.

(3) Every building, improvement, repair or other public works project, the cost of which is estimated to be in excess of (~~((a) fifteen)~~) forty thousand dollars, (~~(for districts with fifteen thousand five hundred or more full-time equivalent students; or (b) for districts with fewer than fifteen thousand five hundred full-time equivalent students, fifteen thousand dollars if more than one craft or trade is involved with the school district improvement or repair, or ten thousand dollars if a single craft or trade is involved with the school district improvement or repair,))~~) shall be on a competitive bid process. Whenever the estimated cost of a public works project is (~~(fifty)~~) one hundred thousand dollars or more, the public bidding process provided in subsection (1) of this section shall be followed unless the contract is let using the small works roster process in RCW 39.04.155 or under any other procedure authorized for school districts. One or more school districts may authorize an educational service district to establish and operate a small works roster for the school district under the provisions of RCW 39.04.155.

(4) The contract for the work or purchase shall be awarded to the lowest responsible bidder as defined in RCW 43.19.1911 but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. On any work or purchase the board shall provide

bidding information to any qualified bidder or the bidder's agent, requesting it in person.

(5) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: PROVIDED, That an "emergency", for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action.

(6) This section does not apply to the direct purchase of school buses by school districts and educational services in accordance with RCW 28A.160.195.

Passed by the House March 10, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 4, 2005.

Filed in Office of Secretary of State May 4, 2005.

CHAPTER 287

[House Bill 1771]

SCHOOL MEAL PROGRAMS

AN ACT Relating to school meal programs; amending RCW 28A.235.160; and amending 2004 c 54 s 1 (uncodified).

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

Sec. 1. RCW 28A.235.160 and 2004 c 54 s 2 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Free or reduced-price lunch" means a lunch served by a school district participating in the national school lunch program to a student qualifying for national school lunch program benefits based on family size-income criteria.

(b) "School lunch program" means a meal program meeting the requirements defined by the superintendent of public instruction under subsection ~~((4))~~ (2)(b) of this section.

(c) "School breakfast program" means a program meeting federal requirements defined in 42 U.S.C. Sec. 1773.

(d) "Severe-need school" means a school that qualifies for a severe-need school reimbursement rate from federal funds for school breakfasts served to children from low-income families.

(e) "Summer food service program" means a meal or snack program meeting the requirements defined by the superintendent of public instruction under subsection ~~((5))~~ (4) of this section.

(2) School districts shall implement a school lunch program in each public school in the district in which educational services are provided to children in any of the grades kindergarten through four and in which twenty-five percent or more of the enrolled students qualify for a free or reduced-price lunch. In developing and implementing its school lunch program, each school district may consult with an advisory committee including school staff, community members, and others appointed by the board of directors of the district.

~~((3))~~ (a) Applications to determine free or reduced-price lunch eligibility shall be distributed and collected for all households of children in schools containing any of the grades kindergarten through four and in which there are no United States department of agriculture child nutrition programs. The applications that are collected must be reviewed to determine eligibility for free or reduced-price lunches. Nothing in this section shall be construed to require completion or submission of the application by a parent or guardian.

~~((4))~~ (b) Using the most current available school data on free and reduced-price lunch eligibility, the superintendent of public instruction shall adopt a schedule for implementation of school lunch programs at each school required to offer such a program under subsection (2) of this section as follows:

~~((a))~~ (i) Schools not offering a school lunch program and in which twenty-five percent or more of the enrolled students are eligible for free or reduced-price lunch shall implement a school lunch program not later than the second day of school in the 2005-06 school year and in each school year thereafter.

~~((b))~~ (ii) The superintendent shall establish minimum standards defining the lunch meals to be served, and such standards must be sufficient to qualify the meals for any available federal reimbursement.

~~((c))~~ (iii) Nothing in this section shall be interpreted to prevent a school from implementing a school lunch program earlier than the school is required to do so.

~~((5))~~ (3) To extent funds are appropriated for this purpose, each school district shall implement a school breakfast program in each school where more than forty percent of students eligible to participate in the school lunch program qualify for free or reduced-price meal reimbursement by the school year 2005-06. For the second year before the implementation of the district's school breakfast program, and for each subsequent school year, each school district shall submit data enabling the superintendent of public instruction to determine which schools within the district will qualify for this requirement. Schools where lunch programs start after the 2003-04 school year, where forty percent of students qualify for free or reduced-price meals, must begin school breakfast programs the second year following the start of a lunch program.

(4) Each school district shall implement a summer food service program in each public school in the district in which a summer program of academic, enrichment, or remedial services is provided and in which fifty percent or more of the children enrolled in the school qualify for free or reduced-price lunch. However, the superintendent of public instruction shall develop rules establishing criteria to permit an exemption for a school that can demonstrate availability of an adequate alternative summer feeding program. Sites providing meals should be open to all children in the area, unless a compelling case can be made to limit access to the program. The superintendent of public instruction shall adopt a definition of compelling case and a schedule for implementation as follows:

(a) Beginning the summer of 2005 if the school currently offers a school breakfast or lunch program; or

(b) Beginning the summer following the school year during which a school implements a school lunch program under subsection ~~((4))~~ (2)(b) of this section.

~~((6))~~ (5) Schools not offering a breakfast or lunch program may meet the meal service requirements of subsections (2)(b) and (4) ~~((and (5)))~~ of this section through any of the following:

(a) Preparing the meals on-site;

(b) Receiving the meals from another school that participates in a United States department of agriculture child nutrition program; or

(c) Contracting with a nonschool entity that is a licensed food service establishment under RCW 69.07.010.

~~((7))~~ (6) Requirements that school districts have a school lunch, breakfast, or summer nutrition program under this section shall not create or imply any state funding obligation for these costs. The legislature does not intend to include these programs within the state's obligation for basic education funding under Article IX of the state Constitution.

~~((8))~~ (7) The requirements in this section shall lapse if the federal reimbursement for any school breakfasts, lunches, or summer food service programs is eliminated.

~~((9))~~ (8) School districts may be exempted from the requirements of this section by showing good cause why they cannot comply with the office of the superintendent of public instruction to the extent that such exemption is not in conflict with federal or state law. The process and criteria by which school districts are exempted shall be developed by the office of the superintendent of public instruction in consultation with representatives of school directors, school food service, community-based organizations and the Washington state PTA.

Sec. 2. 2004 c 54 s 1 (uncodified) is amended to read as follows:

The legislature recognizes that hunger and food insecurity are serious problems in the state. Since the United States department of agriculture began to collect data on hunger and food insecurity in 1995, Washington has been ranked each year within the top ~~((five))~~ ten states with the highest levels of hunger. A significant number of these households classified as hungry are families with children.

The legislature recognizes the correlation between adequate nutrition and a child's development and school performance. This problem can be greatly diminished through improved access to federal nutrition programs.

The legislature also recognizes that improved access to federal nutrition and assistance programs, such as the federal food stamp program and child nutrition programs, can be a critical factor in enabling recipients to gain the ability to support themselves and their families. This is an important step towards self-sufficiency and decreased long-term reliance on governmental assistance and will serve to strengthen families in this state.

Passed by the House April 20, 2005.

Passed by the Senate April 15, 2005.

Approved by the Governor May 4, 2005.

Filed in Office of Secretary of State May 4, 2005.

CHAPTER 288

[Substitute House Bill 1854]

DRIVING PRIVILEGE—REVOCATION

AN ACT Relating to withholding of the driving privilege; amending RCW 46.20.265, 46.20.270, 46.20.285, 46.20.289, 46.20.324, 46.20.334, and 46.63.110; adding a new section to chapter 46.20 RCW; prescribing penalties; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.20 RCW to read as follows:

(1) Whenever the department proposes to withhold the driving privilege of a person or disqualify a person from operating a commercial motor vehicle and this action is made mandatory by the provisions of this chapter or other law, the department must give notice to the person in writing by posting in the United States mail, appropriately addressed, postage prepaid, or by personal service. Notice by mail is given upon deposit in the United States mail. Notice given under this subsection must specify the date upon which the driving privilege is to be withheld which shall not be less than forty-five days after the original notice is given.

(2) Within fifteen days after notice has been given to a person under subsection (1) of this section, the person may request in writing an administrative review before the department. If the request is mailed, it must be postmarked within fifteen days after the date the department has given notice. If a person fails to request an administrative review within fifteen days after the date the department gives notice, the person is considered to have defaulted and loses his or her right to an administrative review unless the department finds good cause for a request after the fifteen-day period.

(a) An administrative review under this subsection shall consist solely of an internal review of documents and records submitted or available to the department, unless the person requests an interview before the department, in which case all or any part of the administrative review may, at the discretion of the department, be conducted by telephone or other electronic means.

(b) The only issues to be addressed in the administrative review are:

(i) Whether the records relied on by the department identify the correct person; and

(ii) Whether the information transmitted from the court or other reporting agency or entity regarding the person accurately describes the action taken by the court or other reporting agency or entity.

(c) For the purposes of this section, the notice received from a court or other reporting agency or entity, regardless of form or format, is prima facie evidence that the information from the court or other reporting agency or entity regarding the person is accurate. A person requesting administrative review has the burden of showing by a preponderance of the evidence that the person is not subject to the withholding of the driving privilege.

(d) The action subject to the notification requirements of subsection (1) of this section shall be stayed during the administrative review process.

(e) Judicial review of a department order affirming the action subject to the notification requirements of subsection (1) of this section after an administrative review shall be available in the same manner as provided in RCW 46.20.308(9). The department shall certify its record to the court within thirty days after

service upon the department of the petition for judicial review. The action subject to the notification requirements of subsection (1) of this section shall not automatically be stayed during the judicial review. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury.

(3) The department may adopt rules that are considered necessary or convenient by the department for purposes of administering this section, including, but not limited to, rules regarding expedited procedures for issuing orders and expedited notice procedures.

(4) This section does not apply where an opportunity for an informal settlement, driver improvement interview, or formal hearing is otherwise provided by law or rule of the department.

Sec. 2. RCW 46.20.265 and 2003 c 20 s 1 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. ~~((The revocation shall be imposed without hearing.))~~

(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), 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. 3. RCW 46.20.270 and 2004 c 231 s 5 are each amended to read as follows:

(1) Whenever any person is convicted of any offense for which this title makes mandatory the ~~((suspension or revocation of the driver's license))~~ withholding of the driving privilege of such person by the department, the ~~((privilege of the person to operate a vehicle is suspended until the department takes the action required by this chapter, and the))~~ court in which such conviction is had shall forthwith ~~((secure the immediate forfeiture of the driver's license of such convicted person and immediately forward such driver's license to the department, and on failure of such convicted person to deliver such driver's license the judge shall cause such person to be confined for the period of such suspension or revocation or until such driver's license is delivered to such judge: PROVIDED, That if the convicted person testifies that he or she does not and at the time of the offense did not have a current and valid vehicle driver's license, the judge shall cause such person to be charged with the operation of a motor vehicle without a current and valid driver's license and on conviction punished as by law provided, and the department may not issue a driver's license to such persons during the period of suspension or revocation: PROVIDED, ALSO, That if the driver's license of such convicted person has been lost or destroyed and such convicted person makes an affidavit to that effect, sworn to before the judge, the convicted person may not be so confined, but the department may not issue or reissue a driver's license for such convicted person during the period of such suspension or revocation: PROVIDED, That))~~ mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department. A valid driver's license or permit to drive marked under this subsection shall remain in effect until the person's driving privilege is withheld by the department pursuant to notice given under section 1 of this act, unless the license or permit expires or otherwise becomes invalid prior to the effective date of this action. Perfection of notice of appeal shall stay the execution of sentence including the ~~((suspension and/or revocation of the driver's license))~~ withholding of the driving privilege.

(2) Every court having jurisdiction over offenses committed under this chapter, or any other act of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, or any federal authority having jurisdiction over offenses substantially the same as those set forth in Title 46 RCW which occur on federal installations within this state, shall forward to the department within ten days of a forfeiture of bail or collateral

deposited to secure the defendant's appearance in court, a payment of a fine or penalty, a plea of guilty or a finding of guilt, or a finding that any person has committed a traffic infraction an abstract of the court record in the form prescribed by rule of the supreme court, showing the conviction of any person or the finding that any person has committed a traffic infraction in said court for a violation of any said laws other than regulations governing standing, stopping, parking, and pedestrian offenses.

(3) Every state agency or municipality having jurisdiction over offenses committed under this chapter, or under any other act of this state or municipal ordinance adopted by a state or local authority regulating the operation of motor vehicles on highways, may forward to the department within ten days of failure to respond, failure to pay a penalty, failure to appear at a hearing to contest the determination that a violation of any statute, ordinance, or regulation relating to standing, stopping, parking, or other infraction issued under RCW 46.63.030(1)(d) has been committed, or failure to appear at a hearing to explain mitigating circumstances, an abstract of the citation record in the form prescribed by rule of the department, showing the finding by such municipality that two or more violations of laws governing standing, stopping, and parking or one or more other infractions issued under RCW 46.63.030(1)(d) have been committed and indicating the nature of the defendant's failure to act. Such violations or infractions may not have occurred while the vehicle is stolen from the registered owner or is leased or rented under a bona fide commercial vehicle lease or rental agreement between a lessor engaged in the business of leasing vehicles and a lessee who is not the vehicle's registered owner. The department may enter into agreements of reciprocity with the duly authorized representatives of the states for reporting to each other violations of laws governing standing, stopping, and parking.

(4) For the purposes of Title 46 RCW the term "conviction" means a final conviction in a state or municipal court or by any federal authority having jurisdiction over offenses substantially the same as those set forth in Title 46 RCW which occur on federal installations in this state, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a traffic law violation charge, regardless of whether the imposition of sentence or sanctions are deferred or the penalty is suspended, but not including entry into a deferred prosecution agreement under chapter 10.05 RCW.

(5) For the purposes of Title 46 RCW the term "finding that a traffic infraction has been committed" means a failure to respond to a notice of infraction or a determination made by a court pursuant to this chapter. Payment of a monetary penalty made pursuant to RCW 46.63.070(2) is deemed equivalent to such a finding.

Sec. 4. RCW 46.20.285 and 2001 c 64 s 6 are each amended to read as follows:

The department shall (~~forthwith~~) revoke the license of any driver for the period of one calendar year unless otherwise provided in this section, upon receiving a record of the driver's conviction of any of the following offenses, when the conviction has become final:

(1) For vehicular homicide the period of revocation shall be two years. The revocation period shall be tolled during any period of total confinement for the offense;

(2) Vehicular assault. The revocation period shall be tolled during any period of total confinement for the offense;

(3) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle, for the period prescribed in RCW 46.61.5055;

(4) Any felony in the commission of which a motor vehicle is used;

(5) Failure to stop and give information or render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another or resulting in damage to a vehicle that is driven or attended by another;

(6) Perjury or the making of a false affidavit or statement under oath to the department under Title 46 RCW or under any other law relating to the ownership or operation of motor vehicles;

(7) Reckless driving upon a showing by the department's records that the conviction is the third such conviction for the driver within a period of two years.

Sec. 5. RCW 46.20.289 and 2002 c 279 s 4 are each amended to read as follows:

The department shall suspend all driving privileges of a person when the department receives notice from a court under RCW 46.63.070(6), 46.63.110(~~((§))~~) (6), or 46.64.025 that the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, other than for a standing, stopping, or parking violation, provided that the traffic infraction or traffic offense is committed on or after the effective date of this act. A suspension under this section takes effect (~~(thirty days after the date the department mails notice of the suspension)~~) pursuant to the provisions of section 1 of this act, and remains in effect until the department has received a certificate from the court showing that the case has been adjudicated, and until the person meets the requirements of RCW 46.20.311. In the case of failure to respond to a traffic infraction issued under RCW 46.55.105, the department shall suspend all driving privileges until the person provides evidence from the court that all penalties and restitution have been paid. A suspension under this section does not take effect if, prior to the effective date of the suspension, the department receives a certificate from the court showing that the case has been adjudicated.

Sec. 6. RCW 46.20.324 and 1965 ex.s. c 121 s 31 are each amended to read as follows:

Unless otherwise provided by law, a person shall not be entitled to a driver improvement interview or formal hearing (~~((as hereinafter provided))~~) under the provisions of RCW 46.20.322 through 46.20.333 when the person:

(1) (~~((When the action by the department is made mandatory by the provisions of this chapter or other law))~~) Has been granted the opportunity for an administrative review, informal settlement, or formal hearing under section 1 of

this act, RCW 46.20.308, 46.25.120, 46.25.125, 46.65.065, 74.20A.320, or by rule of the department; or

(2) ~~((When the person))~~ Has refused or neglected to submit to an examination as required by RCW 46.20.305.

Sec. 7. RCW 46.20.334 and 1972 ex.s. c 29 s 4 are each amended to read as follows:

Unless otherwise provided by law, any person denied a license or a renewal of a license or whose license has been suspended or revoked by the department ~~((except where such suspension or revocation is mandatory under the provisions of this chapter))~~ shall have the right within thirty days, after receiving notice of the decision following a formal hearing to file a notice of appeal in the superior court in the county of his residence. The hearing on the appeal hereunder shall be de novo.

Sec. 8. RCW 46.63.110 and 2003 c 380 s 2 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of RCW 46.55.105(2) is two hundred fifty dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter it is immediately payable. If the ~~((person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty))~~ court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of the effective date of this act or the date the

monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privilege until ((the penalty has)) all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid ((and the penalty provided in subsection (4) of this section has been paid)), and court authorized community restitution has been completed, or until the department has been notified that the court has entered into a new time payment or community restitution agreement with the person.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court shall notify the department of the delinquency. The department shall suspend the person's driver's license or driving privilege until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed a fee of five dollars per

infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited as provided in RCW 43.08.250. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

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 July 1, 2005.

Passed by the House March 11, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 4, 2005.

Filed in Office of Secretary of State May 4, 2005.

CHAPTER 289

[Substitute House Bill 1887]

LITTER TAX

AN ACT Relating to exemptions to the litter tax; and amending RCW 82.19.050.

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

Sec. 1. RCW 82.19.050 and 2003 c 120 s 1 are each amended to read as follows:

The litter tax imposed in this chapter does not apply to:

- (1) The manufacture or sale of products for use and consumption outside the state;
- (2) The value of products or gross proceeds of the sales exempt from tax under RCW 82.04.330;
- (3) The sale of products for resale by a qualified grocery distribution cooperative to customer-owners of the grocery distribution cooperative. For the

purposes of this section, "qualified grocery distribution cooperative" and "customer-owner" have the meanings given in RCW 82.04.298; ~~((e))~~

(4) The sale of food or beverages by retailers that are sold solely for immediate consumption indoors ~~((e))~~ at the seller's ~~((premises))~~ place of business or at a deck or patio at the seller's place of business, or indoors at an eating area that is contiguous to the seller's place of business; or

(5)(a) The sale of prepared food or beverages by caterers where the food or beverages are to be served for immediate consumption in or on individual nonsingle use containers at premises occupied or controlled by the customer.

(b) For the purposes of this subsection, the following definitions apply:

(i) "Prepared food" has the same meaning as provided in RCW 82.08.0293.

(ii) "Nonsingle use container" means a receptacle for holding a single individual's food or beverage that is designed to be used more than once. Nonsingle use containers do not include pizza delivery bags and similar insulated containers that do not directly contact the food. Nonsingle use containers do not include plastic or paper plates or other containers that are disposable.

(iii) "Caterer" means a person contracted to prepare food where the final cooking or serving occurs at a location selected by the customer.

Passed by the House March 15, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 4, 2005.

Filed in Office of Secretary of State May 4, 2005.

CHAPTER 290

[House Bill 2064]

JUVENILE COURTS—JURISDICTION

AN ACT Relating to the date of the offense for the purposes of automatic transfer of jurisdiction; and amending RCW 13.04.030.

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

Sec. 1. RCW 13.04.030 and 2000 c 135 s 2 are each amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age: PROVIDED, That if such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters: PROVIDED FURTHER, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: (I) One or more prior serious violent offenses; (II) two or more prior violent offenses; or (III) three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately;

(C) Robbery in the first degree, rape of a child in the first degree, or drive-by shooting, committed on or after July 1, 1997;

(D) Burglary in the first degree committed on or after July 1, 1997, and the juvenile has a criminal history consisting of one or more prior felony or misdemeanor offenses; or

(E) Any violent offense as defined in RCW 9.94A.030 committed on or after July 1, 1997, and the juvenile is alleged to have been armed with a firearm.

In such a case the adult criminal court shall have exclusive original jurisdiction.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction;

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and

(j) Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family court over child custody proceedings under chapter 26.10 RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

Passed by the House March 9, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 4, 2005.

Filed in Office of Secretary of State May 4, 2005.

CHAPTER 291

[Engrossed House Bill 2254]

HEALTH CARE PROVIDERS—QUALITY IMPROVEMENT COMMITTEES

AN ACT Relating to peer review committees and coordinated quality improvement programs; and amending RCW 4.24.250, 43.70.510, and 70.41.200.

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

Sec. 1. RCW 4.24.250 and 2004 c 145 s 1 are each amended to read as follows:

(1) Any health care provider as defined in RCW 7.70.020 (1) and (2) (~~as now existing or hereafter amended~~) who, in good faith, files charges or presents evidence against another member of their profession based on the claimed incompetency or gross misconduct of such person before a regularly constituted review committee or board of a professional society or hospital whose duty it is to evaluate the competency and qualifications of members of the profession, including limiting the extent of practice of such person in a hospital or similar institution, or before a regularly constituted committee or board of a hospital whose duty it is to review and evaluate the quality of patient care and any person or entity who, in good faith, shares any information or documents with one or more other committees, boards, or programs under subsection (2) of this section, shall be immune from civil action for damages arising out of such activities. For

the purposes of this section, sharing information is presumed to be in good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading. The proceedings, reports, and written records of such committees or boards, or of a member, employee, staff person, or investigator of such a committee or board, (~~shall not be~~) are not subject to review or disclosure, or subpoena or discovery proceedings in any civil action, except actions arising out of the recommendations of such committees or boards involving the restriction or revocation of the clinical or staff privileges of a health care provider as defined (~~above~~) in RCW 7.70.020 (1) and (2).

(2) A coordinated quality improvement program maintained in accordance with RCW 43.70.510 or 70.41.200 and any committees or boards under subsection (1) of this section may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by a coordinated quality improvement committee or committees or boards under subsection (1) of this section, with one or more other coordinated quality improvement programs or committees or boards under subsection (1) of this section for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program or committee or board under subsection (1) of this section to another coordinated quality improvement program or committee or board under subsection (1) of this section and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (1) of this section and by RCW 43.70.510(4) and 70.41.200(3).

Sec. 2. RCW 43.70.510 and 2004 c 145 s 2 are each amended to read as follows:

(1)(a) Health care institutions and medical facilities, other than hospitals, that are licensed by the department, professional societies or organizations, health care service contractors, health maintenance organizations, health carriers approved pursuant to chapter 48.43 RCW, and any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction and regulation of any state agency or any subdivision thereof may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200.

(b) All such programs shall comply with the requirements of RCW 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the institution, facility, professional societies or organizations, health care service contractors, health maintenance organizations, health carriers, or any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction and regulation of any state

agency or any subdivision thereof, unless an alternative quality improvement program substantially equivalent to RCW 70.41.200(1)(a) is developed. All such programs, whether complying with the requirement set forth in RCW 70.41.200(1)(a) or in the form of an alternative program, must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section and the exemption under RCW 42.17.310(1)(hh) and subsection (5) of this section shall apply. In reviewing plans submitted by licensed entities that are associated with physicians' offices, the department shall ensure that the exemption under RCW 42.17.310(1)(hh) and the discovery limitations of this section are applied only to information and documents related specifically to quality improvement activities undertaken by the licensed entity.

(2) Health care provider groups of five or more providers may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200. All such programs shall comply with the requirements of RCW 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the health care provider group. All such programs must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section and the exemption under RCW 42.17.310(1)(hh) and subsection (5) of this section shall apply.

(3) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (6) of this section is not subject to an action for civil damages or other relief as a result of the activity or its consequences. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(4) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to review or disclosure, except as provided in this section, or 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 that 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 challenging the termination of a contract by a state agency with any entity maintaining a coordinated quality improvement program under this section if the termination was on the basis of quality of care concerns, introduction into evidence of information created, collected, or maintained by the quality improvement committees of the subject entity, which may be under terms of a protective order as specified by the court; (e) 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 (f) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department of health to be made regarding the care and treatment received.

(5) Information and documents created specifically for, and collected and maintained by a quality improvement committee are exempt from disclosure under chapter 42.17 RCW.

(6) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or with RCW 70.41.200 or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (4) of this section and RCW 4.24.250.

(7) The department of health shall adopt rules as are necessary to implement this section.

Sec. 3. RCW 70.41.200 and 2004 c 145 s 3 are each amended to read as follows:

(1) Every hospital shall maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of a quality improvement committee with the responsibility to review the services rendered in the hospital, both retrospectively and prospectively, in order to improve the quality of medical care of patients and to prevent medical malpractice. The committee shall oversee and coordinate the quality improvement and medical malpractice prevention

program and shall ensure that information gathered pursuant to the program is used to review and to revise hospital policies and procedures;

(b) A medical staff privileges sanction procedure through which credentials, physical and mental capacity, and competence in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) The periodic review of the credentials, physical and mental capacity, and competence in delivering health care services of all persons who are employed or associated with the hospital;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

(e) The maintenance and continuous collection of information concerning the hospital's experience with negative health care outcomes and incidents injurious to patients, patient grievances, professional liability premiums, settlements, awards, costs incurred by the hospital for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual physicians within the physician's personnel or credential file maintained by the hospital;

(g) Education programs dealing with quality improvement, patient safety, medication errors, injury prevention, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (8) of this section is not subject to an action for civil damages or other relief as a result of the activity. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(3) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to review or disclosure, except as provided in this section, or 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.

(4) Each quality improvement committee shall, on at least a semiannual basis, report to the governing board of the hospital in which the committee is located. The report shall review the quality improvement activities conducted by the committee, and any actions taken as a result of those activities.

(5) The department of health shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

(6) The medical quality assurance commission or the board of osteopathic medicine and surgery, as appropriate, may review and audit the records of committee decisions in which a physician's privileges are terminated or restricted. Each hospital shall produce and make accessible to the commission or board the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of a hospital to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(7) The department, the joint commission on accreditation of health care organizations, and any other accrediting organization may review and audit the records of a quality improvement committee or peer review committee in connection with their inspection and review of hospitals. Information so obtained shall not be subject to the discovery process, and confidentiality shall be respected as required by subsection (3) of this section. Each hospital shall produce and make accessible to the department the appropriate records and otherwise facilitate the review and audit.

(8) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or with RCW 43.70.510 or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet

the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section and RCW 4.24.250.

(9) Violation of this section shall not be considered negligence per se.

Passed by the House March 15, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 4, 2005.

Filed in Office of Secretary of State May 4, 2005.

CHAPTER 292

[Substitute House Bill 2304]

MEDICAL ASSISTANCE—DEBT RECOVERY

AN ACT Relating to debts owed to the department of social and health services for medical assistance and recovery of those debts; amending RCW 65.04.050, 6.13.080, 43.20B.030, and 43.20B.080; adding a new section to chapter 43.20B RCW; and adding a new section to chapter 64.04 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.20B RCW to read as follows:

(1) When an individual receives medical assistance subject to recovery under this chapter and the individual is the holder of record title to real property or the purchaser under a land sale contract, the department of social and health services may present to the county auditor for recording in the deed and mortgage records of a county a request for notice of transfer or encumbrance of the real property. The department shall adopt a rule providing prior notice and hearing rights to the record title holder or purchaser under a land sale contract.

(2) The department shall present to the county auditor for recording a termination of request for notice of transfer or encumbrance when, in the judgment of the department, it is no longer necessary or appropriate for the department to monitor transfers or encumbrances related to the real property.

(3) The department shall adopt by rule a form for the request for notice of transfer or encumbrance and the termination of request for notice of transfer or encumbrance that, at a minimum:

(a) Contains the name of the public assistance recipient and a departmental case identifier or other appropriate information that links the individual who is the holder of record title to real property or the purchaser under a land sale contract to the individual's public assistance records;

(b) Contains the legal description of the real property;

(c) Contains a mailing address for the department to receive the notice of transfer or encumbrance; and

(d) Complies with the requirements for recording in RCW 36.18.010 for those forms intended to be recorded.

(4) The department shall pay the recording fee required by the county clerk under RCW 36.18.010.

(5) The request for notice of transfer or encumbrance described in this section does not affect title to real property and is not a lien on, encumbrance of, or other interest in the real property.

NEW SECTION, Sec. 2. A new section is added to chapter 64.04 RCW to read as follows:

(1) If the department of social and health services has filed a request for notice of transfer or encumbrance under section 1 of this act:

(a) A title insurance company or agent that discovers the presence of a request for notice of transfer or encumbrance when performing a title search on real property shall disclose the presence of the request for notice of transfer or encumbrance in any report preliminary to, or any commitment to offer, a certificate of title insurance for the real property; and

(b) Any individual who transfers or encumbers real property shall provide the department of social and health services with a notice of transfer or encumbrance. The department of social and health services shall adopt by rule a model form for notice of transfer or encumbrance to be used by a purchaser or lender when notifying the department.

(2) If the department of social and health services has caused to be recorded a termination of request for notice of transfer or encumbrance in the deed and mortgage records under section 1 of this act, an individual transferring or encumbering the real property is not required to provide the notice of transfer or encumbrance required by subsection (1)(b) of this section.

Sec. 3. RCW 65.04.050 and 1996 c 143 s 4 are each amended to read as follows:

Every auditor or recording officer must keep a general index, direct and inverted. The index may be either printed on paper or produced on microfilm or microfiche, or it can be created from a computerized data base and displayed on a video display terminal. Any reference to a prior record location number may be entered in the remarks column. Any property legal description contained in the instrument must be entered in the description of property column of the general index. The direct index shall be divided into eight columns, and with heads to the respective columns, as follows: Date of reception, grantor, grantee, nature of instrument, volume and page where recorded and/or the auditor's file number, remarks, description of property, assessor's property tax parcel or account number. The auditor or recording officer shall correctly enter in such index every instrument concerning or affecting real estate which by law is required to be recorded, the names of grantors being in alphabetical order. The inverted index shall also be divided into eight columns, precisely similar, except that "grantee" shall occupy the second column and "grantor" the third, the names of grantees being in alphabetical order. The auditor or recording officer may combine the direct and indirect indexes into a single index if it contains all the information required to be contained in the separate direct and indirect indexes and the names of all grantors and grantees can be found by a person searching the combined index. For the purposes of this chapter, the term "grantor" means any person conveying or encumbering the title to any property, or any person against whom any lis pendens, judgment, notice of lien, order of sale, execution, writ of attachment, (~~(or)~~) claims of separate or community property, or notice for request of transfer or encumbrance under section 1 of this act shall be placed on

record. The auditor or recording officer shall also enter in the general index, the name of the party or parties platting a town, village, or addition in the column prescribed for "grantors," describing the grantee in such case as "the public." However, the auditor or recording officer shall not receive or record any such plat or map until it has been approved by the mayor and common council of the municipality in which the property so platted is situated, or if the property be not situated within any municipal corporation, then the plat must be first approved by the county legislative authority. The auditor or recording officer shall not receive for record any plat, map, or subdivision of land bearing a name the same or similar to the name of any map or plat already on record in the office. The auditor or recording officer may establish a name reservation system to preclude the possibility of duplication of names.

Sec. 4. RCW 6.13.080 and 1993 c 200 s 4 are each amended to read as follows:

The homestead exemption is not available against an execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, construction, maritime, automobile repair, materialmen's or vendor's liens arising out of and against the particular property claimed as a homestead;

(2) On debts secured (a) by security agreements describing as collateral the property that is claimed as a homestead or (b) by mortgages or deeds of trust on the premises that have been executed and acknowledged by the husband and wife or by any unmarried claimant;

(3) On one spouse's or the community's debts existing at the time of that spouse's bankruptcy filing where (a) bankruptcy is filed by both spouses within a six-month period, other than in a joint case or a case in which their assets are jointly administered, and (b) the other spouse exempts property from property of the estate under the bankruptcy exemption provisions of 11 U.S.C. Sec. 522(d);

(4) On debts arising from a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay spousal maintenance; (~~(5)~~)

(5) On debts owing to the state of Washington for recovery of medical assistance correctly paid on behalf of an individual consistent with 42 U.S.C. Sec. 1396p; or

(6) On debts secured by a condominium's or homeowner association's lien. In order for an association to be exempt under this provision, the association must have provided a homeowner with notice that nonpayment of the association's assessment may result in foreclosure of the association lien and that the homestead protection under this chapter shall not apply. An association has complied with this notice requirement by mailing the notice, by first class mail, to the address of the owner's lot or unit. The notice required in this subsection shall be given within thirty days from the date the association learns of a new owner, but in all cases the notice must be given prior to the initiation of a foreclosure. The phrase "learns of a new owner" in this subsection means actual knowledge of the identity of a homeowner acquiring title after June 9, 1988, and does not require that an association affirmatively ascertain the identity of a homeowner. Failure to give the notice specified in this subsection affects an association's lien only for debts accrued up to the time an association complies with the notice provisions under this subsection.

Sec. 5. RCW 43.20B.030 and 2003 c 207 s 1 are each amended to read as follows:

(1) Except as otherwise provided by law, including subsection (2) of this section, there will be no collection of overpayments and other debts due the department after the expiration of six years from the date of notice of such overpayment or other debt unless the department has commenced recovery action in a court of law or unless an administrative remedy authorized by statute is in place. However, any amount due in a case thus extended shall cease to be a debt due the department at the expiration of ten years from the date of the notice of the overpayment or other debt unless a court-ordered remedy would be in effect for a longer period.

(2) There will be no collection of debts due the department after the expiration of twenty years from the date a lien is recorded pursuant to RCW 43.20B.080.

(3) The department, at any time, may accept offers of compromise of disputed claims or may grant partial or total write-off of any debt due the department if it is no longer cost-effective to pursue. The department shall adopt rules establishing the considerations to be made in the granting or denial of a partial or total write-off of debts.

Sec. 6. RCW 43.20B.080 and 1999 c 354 s 2 are each amended to read as follows:

(1) The department shall file liens, seek adjustment, or otherwise effect recovery for medical assistance correctly paid on behalf of an individual consistent with 42 U.S.C. Sec. 1396p. The department shall adopt a rule providing for prior notice and hearing rights to the record title holder or purchaser under a land sale contract.

(2) Liens may be adjusted by foreclosure in accordance with chapter 61.12 RCW.

(3) In the case of an individual who was fifty-five years of age or older when the individual received medical assistance, the department shall seek adjustment or recovery from the individual's estate, and from nonprobate assets of the individual as defined by RCW 11.02.005, but only for medical assistance consisting of nursing facility services, home and community-based services, other services that the department determines to be appropriate, and related hospital and prescription drug services. Recovery from the individual's estate, including foreclosure of liens imposed under this section, shall be undertaken as soon as practicable, consistent with 42 U.S.C. Sec. 1396p.

(4) The department shall apply the medical assistance estate recovery law as it existed on the date that benefits were received when calculating an estate's liability to reimburse the department for those benefits.

(5)(a) The department shall establish procedures consistent with standards established by the federal department of health and human services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when such recovery would work an undue hardship.

(b) Recovery of medical assistance from a recipient's estate shall not include property made exempt from claims by federal law or treaty, including exemption for tribal artifacts that may be held by individual Native Americans.

(6) A lien authorized under ~~((subsections (1) through (5) of))~~ this section relates back to attach to any real property that the decedent had an ownership

interest in immediately before death and is effective as of that date or date of recording, whichever is earlier.

(7) The department may enforce a lien authorized under this section against a decedent's life estate or joint tenancy interest in real property held by the decedent immediately prior to his or her death. Such a lien enforced under this subsection shall not end and shall continue as provided in this subsection until the department's lien has been satisfied.

(a) The value of the life estate subject to the lien shall be the value of the decedent's interest in the property subject to the life estate immediately prior to the decedent's death.

(b) The value of the joint tenancy interest subject to the lien shall be the value of the decedent's fractional interest the recipient would have owned in the jointly held interest in the property had the recipient and the surviving joint tenants held title to the property as tenants in common on the date of the recipient's death.

(c) The department may not enforce the lien provided by this subsection against a bona fide purchaser or encumbrancer that obtains an interest in the property after the death of the recipient and before the department records either its lien or the request for notice of transfer or encumbrance as provided by section 1 of this act.

(d) The department may not enforce a lien provided by this subsection against any property right that vested prior to July 1, 2005.

(8)(a) Subject to the requirements of 42 U.S.C. Sec. 1396p(a) and the conditions of this subsection (8), the department is authorized to file a lien against the property of an individual prior to his or her death, and to seek adjustment and recovery from the individual's estate or sale of the property subject to the lien, if:

(i) The individual is an inpatient in a nursing facility, intermediate care facility for individuals with mental retardation, or other medical institution; and

(ii) The department has determined after notice and opportunity for a hearing that the individual cannot reasonably be expected to be discharged from the medical institution and to return home.

(b) If the individual is discharged from the medical facility and returns home, the department shall dissolve the lien.

(9) The department is authorized to adopt rules to effect recovery under this section. The department may adopt by rule later enactments of the federal laws referenced in this section.

~~((8))~~ (10) It is the responsibility of the department to fully disclose in advance verbally and in writing, in easy to understand language, the terms and conditions of estate recovery to all persons offered long-term care services subject to recovery of payments.

~~((9))~~ (11) In disclosing estate recovery costs to potential clients, and to family members at the consent of the client, the department shall provide a written description of the community service options.

~~((10) The department of social and health services shall develop an implementation plan for notifying the client or his or her legal representative at least quarterly of the types of services used and the cost of those services (debt) that will be charged against the estate. The estate planning implementation plan shall be submitted by December 12, 1999, to the appropriate standing~~

~~committees of the house of representatives and the senate, and to the joint legislative and executive task force on long-term care.))~~

Passed by the House April 23, 2005.

Passed by the Senate April 23, 2005.

Approved by the Governor May 4, 2005.

Filed in Office of Secretary of State May 4, 2005.

CHAPTER 293

[Engrossed Substitute Senate Bill 5470]

PRESCRIPTION DRUGS—NONDOMESTIC WHOLESALERS

AN ACT Relating to importation of prescription drugs from Canadian, United Kingdom, Irish, and other nondomestic wholesalers; adding a new section to chapter 18.64 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that as consumers' prescription drug costs continue to rise, people across the state of Washington are seeking opportunities to purchase lower cost prescription drugs from Canada, the United Kingdom, Ireland, and other countries for their personal use. The state has a strong interest in promoting the safe use of prescription drugs by consumers in Washington state. To address this interest, the legislature intends to seek authorization from the federal government to license Canadian, United Kingdom, Irish, and other nondomestic prescription drug wholesalers, thereby providing licensed retail pharmacies the opportunity to purchase prescription drugs from approved wholesalers and pass those savings on to consumers, and providing consumers the opportunity to purchase prescription drugs from a trusted community pharmacist who is aware of all of their prescription drug needs.

NEW SECTION. Sec. 2. A new section is added to chapter 18.64 RCW to read as follows:

(1) By September 1, 2005, the board shall, in consultation with the department and the health care authority, submit a waiver request to the federal food and drug administration that will authorize the state of Washington to license Canadian, United Kingdom, Irish, and other nondomestic prescription drug wholesalers under RCW 18.64.046, thereby providing retail pharmacies licensed in Washington state the opportunity to purchase prescription drugs from approved wholesalers and pass those savings on to consumers. The waiver shall provide that:

(a) Canadian, United Kingdom, Irish, and other nondomestic prescription drug wholesalers meet the requirements of RCW 18.64.046 and any rules adopted by the board to implement those requirements;

(b) The board must ensure the integrity of the prescription drug products being distributed by:

(i) Requiring that prescription drugs purchased from Canadian, United Kingdom, Irish, and other nondomestic wholesalers originate only from approved manufacturing locations;

(ii) Routinely testing prescription drugs purchased from Canadian, United Kingdom, Irish, and other nondomestic wholesalers for safety;

(iii) Establishing safe labeling, tracking, and shipping procedures for prescription drugs purchased from Canadian, United Kingdom, Irish, and other nondomestic wholesalers; and

(iv) Closely monitoring compliance with RCW 18.64.046 and any rules adopted to implement the waiver;

(c) The prescription drugs purchased from Canadian, United Kingdom, Irish, and other nondomestic wholesalers must be limited to those that are not temperature sensitive or infused and for which potential savings to consumers can be demonstrated and those available through purchase by individuals only at licensed retail pharmacies;

(d) To ensure that the program benefits those consumers without insurance coverage for prescription drugs who are most in need of price relief, prescription drug purchases from pharmacies under the waiver will be limited to those not eligible for reimbursement by third party insurance coverage, whether public or private, for the particular drug being purchased; and

(e) Savings associated with purchasing prescription drugs from Canadian, United Kingdom, Irish, and other nondomestic wholesalers will be passed on to consumers.

(2) Upon approval of the federal waiver submitted in accordance with subsection (1) of this section, the board, in consultation with the department and the health care authority, shall submit a detailed implementation plan to the governor and appropriate committees of the legislature that details the mechanisms that the board will use to implement each component of the waiver under subsection (1) of this section.

(3) The board shall adopt rules as necessary to implement this act.

NEW SECTION. Sec. 3. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

Passed by the Senate April 19, 2005.

Passed by the House April 6, 2005.

Approved by the Governor May 5, 2005.

Filed in Office of Secretary of State May 5, 2005.

CHAPTER 294

[Engrossed Substitute House Bill 2171]

GROWTH MANAGEMENT—FINANCIAL ASSISTANCE

AN ACT Relating to allowing counties and cities one additional year to comply with the requirements of RCW 36.70A.130; amending RCW 36.70A.130; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature recognizes the importance of appropriate and meaningful land use measures and that such measures are

critical to preserving and fostering the quality of life enjoyed by Washingtonians. The legislature recognizes also that the growth management act requires counties and cities to review and, if needed, revise their comprehensive plans and development regulations on a cyclical basis. These requirements, which often require significant compliance efforts by local governments are, in part, an acknowledgment of the continual changes that occur within the state, and the need to ensure that land use measures reflect the collective wishes of its citizenry.

The legislature acknowledges that only those jurisdictions in compliance with the review and revision schedules of the growth management act are eligible to receive funds from the public works assistance and water quality accounts in the state treasury. The legislature further recognizes that some jurisdictions that are not yet in compliance with these review and revision schedules have demonstrated substantial progress towards compliance.

The legislature, therefore, intends to grant jurisdictions that are not in compliance with requirements for development regulations that protect critical areas, but are demonstrating substantial progress towards compliance with these requirements, twelve months of additional eligibility to receive grants, loans, pledges, or financial guarantees from the public works assistance and water quality accounts in the state treasury. The legislature intends to specify, however, that only counties and cities in compliance with the review and revision schedules of the growth management act may receive preference for financial assistance from these accounts.

Sec. 2. RCW 36.70A.130 and 2002 c 320 s 1 are each amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons ~~((therefore))~~ therefor.

(c) The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section. The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

~~((b))~~ (d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the time periods specified in subsection (4) of this section or in accordance with the provisions of subsection (8) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea;

(ii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW; and

(iii) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with a growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(4) The department shall establish a schedule for counties and cities to take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter. Except as provided in subsection (8) of this section, the schedule established by the department shall provide for the reviews and evaluations to be completed as follows:

(a) On or before December 1, 2004, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2005, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2006, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2007, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the time limits established in subsection (4) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(6) A county or city subject to the time periods in subsection (4)(a) of this section that, pursuant to an ordinance adopted by the county or city establishing a schedule for periodic review of its comprehensive plan and development regulations, has conducted a review and evaluation of its comprehensive plan and development regulations and, on or after January 1, 2001, has taken action in response to that review and evaluation shall be deemed to have conducted the first review required by subsection (4)(a) of this section. Subsequent review and evaluation by the county or city of its comprehensive plan and development regulations shall be conducted in accordance with the time periods established under subsection (4)(a) of this section.

(7) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities in compliance with the schedules in this section (~~shall have the requisite authority to~~) and those counties and cities demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas may receive grants, loans, pledges, or financial guarantees from those accounts established in RCW 43.155.050 and 70.146.030. A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is deemed to be making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section (~~shall~~) may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8)(a) Counties and cities required to satisfy the requirements of this section according to the schedule established by subsection (4)(b) through (d) of this section may comply with the requirements of this section for development regulations that protect critical areas one year after the dates established in subsection (4)(b) through (d) of this section.

(b) Counties and cities complying with the requirements of this section one year after the dates established in subsection (4)(b) through (d) of this section for development regulations that protect critical areas shall be deemed in compliance with the requirements of this section.

(c) This subsection (8) applies only to the counties and cities specified in subsection (4)(b) through (d) of this section, and only to the requirements of this section for development regulations that protect critical areas that must be satisfied by December 1, 2005, December 1, 2006, and December 1, 2007.

(9) Notwithstanding subsection (8) of this section and the substantial progress provisions of subsections (7) and (10) of this section, only those counties and cities complying with the schedule in subsection (4) of this section may receive preferences for grants, loans, pledges, or financial guarantees from those accounts established in RCW 43.155.050 and 70.146.030.

(10) Until December 1, 2005, and notwithstanding subsection (7) of this section, a county or city subject to the time periods in subsection (4)(a) of this section demonstrating substantial progress towards compliance with the schedules in this section for its comprehensive land use plan and development regulations may receive grants, loans, pledges, or financial guarantees from those accounts established in RCW 43.155.050 and 70.146.030. A county or city that is fewer than twelve months out of compliance with the schedules in this section for its comprehensive land use plan and development regulations is deemed to be making substantial progress towards compliance.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 20, 2005.

Passed by the Senate April 19, 2005.

Approved by the Governor May 5, 2005.

Filed in Office of Secretary of State May 5, 2005.

CHAPTER 295

[Engrossed Substitute House Bill 1397]

MOTOR VEHICLE EMISSIONS STANDARDS

AN ACT Relating to vehicle emission standards; amending RCW 70.94.017, 70.120.170, and 46.37.540; amending 2003 c 264 s 9 (uncodified); adding a new section to chapter 46.16 RCW; adding a new chapter to Title 70 RCW; creating new sections; repealing RCW 70.120.200; repealing 1991 c 199 s 229 (uncodified); prescribing penalties; providing an effective date; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that:

(1) Motor vehicles are the largest source of air pollution in the state of Washington, and motor vehicles contribute approximately fifty-seven percent of criteria air pollutant emissions, eighty percent of air toxics emissions, and fifty-five percent of greenhouse gas emissions;

(2) Air pollution levels routinely measured in the state of Washington continue to harm public health, the environment, and the economy. Air pollution causes or contributes to premature death, cancer, asthma, and heart and lung disease. Over half of the state's population suffers from one or more medical

conditions that make them very vulnerable to air pollution. Air pollution increases pain and suffering for vulnerable individuals. Air pollution imposes several hundred million dollars annually in added health care costs for air pollution-associated death and illness, reducing the quality of life and economic security of the citizens of Washington;

(3) Reductions of greenhouse gas emissions from transportation sources are necessary, and it is equitable to seek such reductions because reductions in greenhouse gas emissions have already been initiated in other sectors such as power generation;

(4) Reductions in greenhouse gas emissions made under this act should be credited toward any future federal, state, or regional comprehensive regulatory structure enacted to address reducing greenhouse gas emissions;

(5) Under the federal clean air act, the state of Washington has the option to implement either federal motor vehicle emission standards or California motor vehicle emission standards for passenger cars, light duty trucks, and medium duty passenger vehicles;

(6) Opting into the California motor vehicle standards will provide significant and necessary air quality benefits to residents of the state of Washington; and

(7) Adoption of the California motor vehicle standards will increase consumer choices of cleaner vehicles, provide better warranties to consumers, and provide sufficient air quality benefit to allow additional business and economic growth in the key airsheds of the state while maintaining conformance with federal air quality standards.

NEW SECTION. Sec. 2. (1) Pursuant to the federal clean air act, the legislature adopts the California motor vehicle emission standards in Title 13 of the California Code of Regulations, effective January 1, 2005, except as provided in this chapter. The department of ecology shall adopt rules to implement the emission standards of the state of California for passenger cars, light duty trucks, and medium duty passenger vehicles, and shall amend the rules from time to time, to maintain consistency with the California motor vehicle emission standards and 42 U.S.C. Sec. 7507 (section 177 of the federal clean air act). Notwithstanding other provisions of this chapter, the department of ecology shall not adopt the zero emission vehicle program regulations contained in Title 13 section 1962 of the California Code of Regulations effective January 1, 2005. During rule development, the department of ecology shall convene an advisory group composed of industry and consumer group representatives. Any proposed rules or changes to rules shall be subject to review and comment by the advisory group, prior to rule adoption. The order of adoption for the rules required in this section shall include the signature of the governor. The rules shall be effective only for those model years for which the state of Oregon has adopted the California motor vehicle emission standards. This section does not limit the department of ecology's authority to regulate motor vehicle emissions for any other class of vehicle.

(2) Motor vehicles with a model year equal to or later than the first model year for which new vehicles sold to Washington state residents are required to comply with California motor vehicle emission standards are exempt from emission inspections under chapter 70.120 RCW.

NEW SECTION. Sec. 3. (1) In recognition of the provisions of the federal clean air act which require a minimum phase-in period of three model years for adoption of California motor vehicle emission standards, the implementing rules shall include a system of early credits and banking for manufacturers for zero emission vehicles produced and sold earlier than the implementation date for the standards in Washington. Beginning with the model year in which the new standards become effective, each manufacturer's fleet of passenger cars and light duty trucks delivered for sale in the state of Washington shall proportionately conform to the zero emission vehicle requirements of Title 13 of the California Code of Regulations, including early credit and banking provisions set forth in Title 13 of the Code of California Regulations using Washington specific vehicle numbers. A manufacturer shall be given early Washington zero emission vehicle credits proportionally equivalent to the zero emission vehicle credits possessed by the requesting manufacturer for use in the state of California on January 1st of the model year the California standards become effective in Washington.

(2) In addition, an alternative means of compliance with the requirements of subsection (1) of this section shall be created in the implementing rules provided for in section 2 of this act. The alternative means of compliance shall allow a manufacturer to earn Washington zero emission vehicle credits beginning with the 2005 model year. The alternative means of compliance shall be developed to be consistent in concept with the alternative compliance systems developed for the states of Connecticut, New York, and Maine as they adopted the zero emission vehicle provisions of the California motor vehicle standards and shall contain a Washington multiplier consistent with the multipliers in those systems. The implementing rules shall require timely notification by the manufacturer to the department of ecology of an election to use the alternative means of compliance.

NEW SECTION. Sec. 4. Individual automobile manufacturers may certify independent automobile repair shops to perform warranty service on the manufacturers' vehicles. Upon certification of the independent automobile repair shops, the manufacturers shall compensate the repair shops at the same rate as franchised dealers for covered warranty repair services.

Sec. 5. RCW 70.94.017 and 2003 c 264 s 1 are each amended to read as follows:

(1) Money deposited in the segregated subaccount of the air pollution control account under RCW 46.68.020(2) shall be distributed as follows:

(a) Eighty-five percent shall be distributed to air pollution control authorities created under this chapter. The money must be distributed in direct proportion with the amount of fees imposed under RCW 46.12.080, 46.12.170, and 46.12.181 that are collected within the boundaries of each authority. However, an amount in direct proportion with those fees collected in counties for which no air pollution control authority exists must be distributed to the department.

(b) The remaining fifteen percent shall be distributed to the department.

(2) Money distributed to air pollution control authorities and the department under subsection (1) of this section must be used as follows:

(a) Eighty-five percent of the money received by an air pollution control authority or the department (~~((must be used))~~) is available on a priority basis to retrofit school buses with exhaust emission control devices or to provide funding for fueling infrastructure necessary to allow school bus fleets to use alternative, cleaner fuels. In addition, the director of ecology or the air pollution control officer may direct funding under this section for other publicly owned diesel equipment if the director of ecology or the air pollution control officer finds that funding for other publicly owned diesel equipment will provide public health benefits and further the purposes of this chapter.

(b) The remaining fifteen percent may be used by the air pollution control authority or department to reduce (~~((vehicle))~~) transportation-related air contaminant emissions and clean up air pollution, or reduce and monitor toxic air contaminants.

(3) Money in the air pollution control account may be spent by the department only after appropriation.

(4) (~~The department shall provide a report to the legislative transportation committees on the progress of the implementation of this section by December 31, 2004~~) This section expires July 1, 2020.

Sec. 6. RCW 70.120.170 and 1998 c 342 s 4 are each amended to read as follows:

(1) The department shall administer a system for emission inspections of all motor vehicles, except those described in RCW 46.16.015(2), that are registered within the boundaries of each emission contributing area. Under such system a motor vehicle shall be inspected biennially except where an annual program would be required to meet federal law and prevent federal sanctions. In addition, motor vehicles shall be inspected at each change of registered owner of a licensed vehicle as provided under RCW 46.16.015.

(2) The director shall:

(a) Adopt procedures for conducting emission inspections of motor vehicles. The inspections may include idle and high revolution per minute emission tests. The emission test for diesel vehicles shall consist solely of a smoke opacity test.

(b) Adopt criteria for calibrating emission testing equipment. Electronic equipment used to test for emissions standards provided for in this chapter shall be properly calibrated. The department shall examine frequently the calibration of the emission testing equipment used at the stations.

(c) Authorize, through contracts, the establishment and operation of inspection stations for conducting vehicle emission inspections authorized in this chapter. No person contracted to inspect motor vehicles may perform for compensation repairs on any vehicles. No public body may establish or operate contracted inspection stations. Any contracts (~~((must be let in accordance))~~) comply with the procedures established for competitive bids in chapter 43.19 RCW.

(d) Beginning in 2012, authorize businesses other than those contracted to operate inspection stations under (c) of this subsection to conduct vehicle emission inspections. Businesses authorized under this subsection may also inspect and perform, for compensation, repairs on vehicles. The fee limitations under subsection (4) of this section do not apply to the fee charged for a vehicle emissions inspection by a business authorized to conduct vehicle emission

inspections under this subsection. The director may establish by rule a fee to be paid to the department for the oversight costs for each vehicle emission inspection performed by a business authorized under this subsection (2)(d).

(3) Subsection (2)(c) of this section does not apply to volunteer motor vehicle inspections under RCW 70.120.020(1) if the inspections are conducted for the following purposes:

- (a) Auditing;
- (b) Contractor evaluation;
- (c) Collection of data for establishing calibration and performance standards; or
- (d) Public information and education.

(4)(a) The director shall establish by rule the fee to be charged for emission inspections. The inspection fee shall be a standard fee applicable statewide or throughout an emission contributing area and shall be no greater than fifteen dollars. Surplus moneys collected from fees over the amount due the contractor shall be paid to the state and deposited in the general fund. Fees shall be set at the minimum whole dollar amount required to (i) compensate the contractor or inspection facility owner, and (ii) offset the general fund appropriation to the department to cover the administrative costs of the motor vehicle emission inspection program.

(b) Before each inspection, a person whose motor vehicle is to be inspected shall pay to the inspection station the fee established under this section. The person whose motor vehicle is inspected shall receive the results of the inspection. If the inspected vehicle complies with the standards established by the director, the person shall receive a dated certificate of compliance. If the inspected vehicle does not comply with those standards, one reinspection of the vehicle shall be afforded without charge.

(5) All units of local government and agencies of the state with motor vehicles garaged or regularly operated in an emissions contributing area shall test the emissions of those vehicles annually to ensure that the vehicle's emissions comply with the emission standards established by the director. All state agencies outside of emission contributing areas with more than twenty motor vehicles housed at a single facility or contiguous facilities shall test the emissions of those vehicles annually to ensure that the vehicles' emissions comply with standards established by the director. A report of the results of the tests shall be submitted to the department.

(6) This section expires January 1, 2020.

NEW SECTION. Sec. 7. A new section is added to chapter 46.16 RCW to read as follows:

After adoption of rules specified in section 2 of this act, no vehicle shall be registered, leased, rented, or sold for use in the state starting with the model year as provided in section 2 of this act unless the vehicle: (1)(a) Is consistent with the vehicle emission standards as adopted by the department of ecology; (b) is consistent with the carbon dioxide equivalent emission standards as adopted by the department of ecology; and (c) has a California certification label for (i) all emission standards, and (ii) carbon dioxide equivalent emission standards necessary to meet fleet average requirements; or (2) has seven thousand five hundred miles or more. The department of licensing, in consultation with the department of ecology, may adopt rules necessary to implement this section and

may provide for reasonable exemptions to these requirements. The department of ecology may exempt public safety vehicles from meeting the standards where the department finds that vehicles necessary to meet the needs of public safety agencies are not otherwise reasonably available.

Sec. 8. RCW 46.37.540 and 1983 c 3 s 119 are each amended to read as follows:

(1) The legislature intends to make it illegal for persons to turn forward the odometer on a new car to avoid compliance with the emissions standards required by this act.

(2) It shall be unlawful for any person to disconnect, turn back, ~~turn forward~~, or reset the odometer of any motor vehicle with the intent to ~~((reduce))~~ change the number of miles indicated on the odometer gauge. A violation of this subsection is a gross misdemeanor.

NEW SECTION. Sec. 9. The office of financial management shall provide an annual progress report to the appropriate committees of the legislature. The office of financial management, in conjunction with the departments of licensing, revenue, and ecology, shall report on the availability of vehicles meeting the standards, the progress of automobile industries in meeting the requirements of the standards, and any other matters relevant to the success of auto-related industries in implementing these requirements.

Sec. 10. 2003 c 264 s 9 (uncodified) is amended to read as follows:

Section(~~s 1 and~~) 3 of this act expires July 1, (~~2008~~) 2020.

NEW SECTION. Sec. 11. RCW 70.120.200 (Engine conformance) and 1991 c 199 s 211 are each repealed.

NEW SECTION. Sec. 12. 1991 c 199 s 229 (uncodified) is repealed.

NEW SECTION. Sec. 13. Sections 2 and 3 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 14. Sections 5, 6, and 10 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2005.

NEW SECTION. Sec. 15. Sections 1, 2, 7, and 11 through 13 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Passed by the House April 20, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 296

[Second Substitute Senate Bill 5916]

CLEAN ALTERNATIVE FUEL VEHICLES—TAX INCENTIVES

AN ACT Relating to tax incentives for clean alternative fuel vehicles; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; creating a new section; providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of new passenger cars, light duty trucks, and medium duty passenger vehicles, which are exclusively powered by a clean alternative fuel.

(2) The seller must keep records necessary for the department to verify eligibility under this section.

(3) As used in this section, "clean alternative fuel" means natural gas, propane, hydrogen, or electricity, when used as a fuel in a motor vehicle that meets the California motor vehicle emission standards in Title 13 of the California code of regulations, effective January 1, 2005, and the rules of the Washington state department of ecology.

NEW SECTION. Sec. 2. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of new passenger cars, light duty trucks, and medium duty passenger vehicles, which utilize hybrid technology and have a United States environmental protection agency estimated highway gasoline mileage rating of at least forty miles per gallon.

(2) The seller must keep records necessary for the department to verify eligibility under this section.

(3) As used in this section, "hybrid technology" means propulsion units powered by both electricity and gasoline.

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 in respect to the use of new passenger cars, light duty trucks, and medium duty passenger vehicles, which are exclusively powered by a clean alternative fuel.

(2) "Clean alternative fuel" has the same meaning as provided in section 1 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of new passenger cars, light duty trucks, and medium duty passenger vehicles, which utilize hybrid technology and have a United States environmental protection agency estimated highway gasoline mileage rating of at least forty miles per gallon.

(2) "Hybrid technology" has the same meaning as provided in section 2 of this act.

NEW SECTION. Sec. 5. This act takes effect January 1, 2009.

NEW SECTION. Sec. 6. This act expires January 1, 2011.

NEW SECTION. Sec. 7. If Senate Bill No. 5397 (2005) or House Bill No. 1397 (2005) is not enacted into law, this act is null and void in its entirety.

Passed by the Senate April 24, 2005.

Passed by the House April 24, 2005.

Approved by the Governor May 6, 2005.
Filed in Office of Secretary of State May 6, 2005.

CHAPTER 297

[Engrossed Senate Bill 6003]

COMMUTE TRIP REDUCTION TAX CREDIT

AN ACT Relating to commute trip reduction tax credit; amending RCW 82.70.010, 82.70.020, 82.70.030, and 82.70.040; adding a new section to chapter 82.70 RCW; creating a new section; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 82.70.010 and 2003 c 364 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter and RCW 70.94.996 unless the context clearly requires otherwise.

(1) "Public agency" means any county, city, or other local government agency or any state government agency, board, or commission.

(2) "Public transportation" means the same as "public transportation service" as defined in RCW 36.57A.010 and includes passenger services of the Washington state ferries.

(3) "Nonmotorized commuting" means commuting to and from the workplace by an employee by walking or running or by riding a bicycle or other device not powered by a motor.

(4) "Ride sharing" means the same as "flexible commuter ride sharing" as defined in RCW 46.74.010, including ride sharing on Washington state ferries.

(5) "Car sharing" means a membership program intended to offer an alternative to car ownership under which persons or entities that become members are permitted to use vehicles from a fleet on an hourly basis.

(6) "Telework" means a program where work functions that are normally performed at a traditional workplace are instead performed by an employee at his or her home at least one day a week for the purpose of reducing the number of trips to the employee's workplace.

(7) "Applicant" means a person applying for a tax credit under this chapter.

NEW SECTION. Sec. 2. A new section is added to chapter 82.70 RCW to read as follows:

(1) Application for tax credits under this chapter must be received by the department between the first day of January and the 31st day of January, following the calendar year in which the applicant made payments to or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting. The application shall be made to the department in a form and manner prescribed by the department. The application shall contain information regarding the number of employees for which incentives are paid during the calendar year, the amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, the amount of credit deferred under RCW 82.70.040(2)(b)(i) to be used, and other information required by the department. For applications due by January 31, 2006, the application shall not include amounts paid from January 1, 2005, through June 30, 2005, to or on

behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting.

(2) The department shall rule on the application within sixty days of the deadline provided in subsection (1) of this section.

(3) The department shall disapprove any application not received by the deadline provided in subsection (1) of this section regardless of the reason that the application was received after the deadline.

(4) After an application is approved and tax credit granted, no increase in the credit shall be allowed.

Sec. 3. RCW 82.70.020 and 2003 c 364 s 2 are each amended to read as follows:

(1) Employers in this state who are taxable under chapter 82.04 or 82.16 RCW and provide financial incentives to their own or other employees for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting before July 1, 2013, are allowed a credit against taxes payable under chapters 82.04 and 82.16 RCW for amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, not to exceed sixty dollars per employee per fiscal year.

(2) Property managers who are taxable under chapter 82.04 or 82.16 RCW and provide financial incentives to persons employed at a worksite in this state managed by the property manager for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting before July 1, 2013, are allowed a credit against taxes payable under chapters 82.04 and 82.16 RCW for amounts paid to or on behalf of these persons for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, not to exceed sixty dollars per person per fiscal year.

(3) The credit under this section is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per fiscal year. ~~((The credit may not exceed the amount of tax that would otherwise be due under chapters 82.04 and 82.16 RCW.))~~ No refunds may be granted for credits under this section.

(4) A person may not receive credit under this section for amounts paid to or on behalf of the same employee under both chapters 82.04 and 82.16 RCW.

(5) A person may not take a credit under this section for amounts claimed for credit by other persons.

Sec. 4. RCW 82.70.030 and 2003 c 364 s 3 are each amended to read as follows:

~~((1) Application for tax credit under RCW 82.70.020 may only be made in the form and manner prescribed in rules adopted by the department.~~

~~(2) The credit under this section must be taken or deferred under RCW 82.70.040 against taxes due for the same fiscal year in which the amounts for which credit is claimed were paid to or on behalf of employees for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting and must be claimed by the due date of the last tax return for the fiscal year in which the payment is made.~~

(3)) Any person who knowingly makes a false statement of a material fact in the application required under section 2 of this act for a credit under RCW 82.70.020 is guilty of a gross misdemeanor.

Sec. 5. RCW 82.70.040 and 2003 c 364 s 4 are each amended to read as follows:

(1)(a) The department shall keep a running total of all credits ~~((accrued))~~ allowed under RCW 82.70.020 during each fiscal year. ~~((No person is eligible for tax credits under RCW 82.70.020 if the credits would cause the tabulation for the total amount of credits taken in any fiscal year))~~ The department shall not allow any credits that would cause the total amount allowed to exceed two million ((two)) seven hundred fifty thousand dollars in any fiscal year. This limitation includes any deferred credits carried forward under subsection (2)(b)(i) of this section from prior years.

(b) If the total amount of credit applied for by all applicants in any year exceeds the limit in this subsection, the department shall ratably reduce the amount of credit allowed for all applicants so that the limit in this subsection is not exceeded. If a credit is reduced under this subsection, the amount of the reduction may not be carried forward and claimed in subsequent fiscal years.

(2)(a) ~~((No person is eligible for))~~ Tax credits under RCW 82.70.020 may not be claimed in excess of the amount of tax ((that would)) otherwise ((be)) due under chapter 82.04 or 82.16 RCW.

(b)(i) Through June 30, 2005, a person with taxes equal to or in excess of the credit under RCW 82.70.020, and therefore not subject to the limitation in (a) of this subsection, may elect to defer tax credits for a period of not more than three years after the year in which the credits accrue. No credits deferred under this subsection (2)(b)(i) may be used after June 30, 2008. A person deferring tax credits under this subsection (2)(b)(i) must submit an application as provided in section 2 of this act in the year in which the deferred tax credits will be ((applied)) used. This application is subject to ~~((eligibility under))~~ the provisions of subsection (1) of this section for the ((fiscal)) year in which the tax credits will be applied. If a deferred credit is reduced under subsection (1)(b) of this section, the amount of deferred credit disallowed because of the reduction may be carried forward as long as the period of deferral does not exceed three years after the year in which the credit was earned.

(ii) For credits approved by the department after June 30, 2005, the approved credit may be carried forward to subsequent years until used. Credits carried forward as authorized by this subsection are subject to the limitation in subsection (1)(a) of this section for the fiscal year for which the credits were originally approved.

(3) No person ~~((is eligible))~~ shall be approved for tax credits under RCW 82.70.020 in excess of two hundred thousand dollars in any fiscal year. This limitation does not apply to credits ~~((deferred in))~~ carried forward from prior years under subsection (2)(b) of this section.

(4) No person ~~((is eligible for))~~ may claim tax credits ~~((, including deferred credits authorized under subsection (2)(b) of this section,))~~ after June 30, 2013.

(5) Credits may not be carried forward ~~((or carried backward))~~ other than as authorized in subsection (2)(b) of this section.

(6) No person is eligible for tax credits under RCW 82.70.020 if the additional revenues for the multimodal transportation account created by Engrossed Substitute House Bill No. 2231 are terminated.

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 July 1, 2005.

NEW SECTION. Sec. 7. If Senate Bill No. 6103, or substantially similar legislation, is not enacted by June 30, 2005, this act is null and void.

Passed by the Senate April 24, 2005.

Passed by the House April 24, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 298

[Engrossed Substitute House Bill 1062]

ENERGY EFFICIENCY

AN ACT Relating to energy efficiency; adding a new chapter to Title 19 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds that:

(1) According to estimates of the department of community, trade, and economic development, the efficiency standards set forth in this act will save nine hundred thousand megawatt-hours of electricity, thirteen million therms of natural gas, and one billion seven hundred million gallons of water in the year 2020, fourteen years after the standards have become effective, with a total net present value to buyers of four hundred ninety million dollars in 2020.

(2) Efficiency standards for certain products sold or installed in the state assure consumers and businesses that such products meet minimum efficiency performance levels thus saving money on utility bills.

(3) Efficiency standards save energy and reduce pollution and other environmental impacts associated with the production, distribution, and use of electricity and natural gas.

(4) Efficiency standards contribute to the economy of Washington by helping to better balance energy supply and demand, thus reducing pressure for higher natural gas and electricity prices. By saving consumers and businesses money on energy bills, efficiency standards help the state and local economy, since energy bill savings can be spent on local goods and services.

(5) Efficiency standards can make electricity systems more reliable by reducing the strain on the electricity grid during peak demand periods. Furthermore, improved energy efficiency can reduce or delay the need for new power plants, power transmission lines, and power distribution system upgrades.

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

(1) "Automatic commercial ice cube machine" means a factory-made assembly, not necessarily shipped in one package, consisting of a condensing unit and ice-making section operating as an integrated unit with means for

making and harvesting ice cubes. It may also include integrated components for storing or dispensing ice, or both.

(2) "Ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions, such as voltage, current, and waveform, for starting and operating the lamp.

(3) "Commercial clothes washer" means a soft mount horizontal or vertical-axis clothes washer that: (a) Has a clothes container compartment no greater than 3.5 cubic feet in the case of a horizontal-axis product or no greater than 4.0 cubic feet in the case of a vertical-axis product; and (b) is designed for use by more than one household, such as in multifamily housing, apartments, or coin laundries.

(4) "Commercial prerinse spray valve" means a handheld device designed and marketed for use with commercial dishwashing and warewashing equipment and that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue prior to their cleaning.

(5)(a) "Commercial refrigerators and freezers" means refrigerators, freezers, or refrigerator-freezers designed for use by commercial or institutional facilities for the purpose of storing or merchandising food products, beverages, or ice at specified temperatures that: (i) Incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single cabinet; and (ii) may be configured with either solid or transparent doors as a reach-in cabinet, pass-through cabinet, roll-in cabinet, or roll-through cabinet.

(b) "Commercial refrigerators and freezers" does not include: (i) Products with 85 cubic feet or more of internal volume; (ii) walk-in refrigerators or freezers; (iii) consumer products that are federally regulated pursuant to 42 U.S.C. Sec. 6291 et seq.; (iv) products without doors; or (v) freezers specifically designed for ice cream.

(6) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

(7) "Department" means the department of community, trade, and economic development.

(8) "High-intensity discharge lamp" means a lamp in which light is produced by the passage of an electric current through a vapor or gas, and in which the light-producing arc is stabilized by bulb wall temperature and the arc tube has a bulb wall loading in excess of three watts per square centimeter.

(9) "Illuminated exit sign" means an internally illuminated sign that is designed to be permanently fixed in place to identify a building exit and consists of an electrically powered integral light source that illuminates the legend "EXIT" and any directional indicators and provides contrast between the legend, any directional indicators, and the background.

(10)(a) "Low-voltage dry-type distribution transformer" means a distribution transformer that: (i) Has an input voltage of 600 volts or less; (ii) is air cooled; (iii) does not use oil as a coolant; and (iv) is rated for operation at a frequency of 60 hertz.

(b) "Low-voltage dry-type transformer" does not include: (i) Transformers with multiple voltage taps, with the highest voltage tap equaling at least twenty percent more than the lowest voltage tap; or (ii) transformers, such as those commonly known as drive transformers, rectifier transformers, auto transformers, uninterruptible power system transformers, impedance

transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application and are unlikely to be used in general purpose applications.

(11) "Metal halide lamp" means a high-intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

(12) "Metal halide lamp fixture" means a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

(13) "Pass-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on both the front and rear of the unit.

(14) "Probe-start metal halide ballast" means a ballast used to operate metal halide lamps which does not contain an igniter and which instead starts lamps by using a third starting electrode "probe" in the arc tube.

(15) "Reach-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors or lids, but does not include roll-in or roll-through cabinets or pass-through cabinets.

(16)(a) "Roll-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors that allow wheeled racks of product to be rolled into the unit.

(b) "Roll-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on two sides of the cabinet that allow wheeled racks of product to be rolled through the unit.

(17)(a) "Single-voltage external AC to DC power supply" means a device that: (i) Is designed to convert line voltage alternating current input into lower voltage direct current output; (ii) is able to convert to only one DC output voltage at a time; (iii) is sold with, or intended to be used with, a separate end-use product that constitutes the primary power load; (iv) is contained within a separate physical enclosure from the end-use product; (v) is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring; and (vi) has a nameplate output power less than or equal to 250 watts.

(b) "Single-voltage external AC to DC power supply" does not include: (i) Products with batteries or battery packs that physically attach directly to the power supply unit; (ii) products with a battery chemistry or type selector switch and indicator light; or (iii) products with a battery chemistry or type selector switch and a state of charge meter.

(18) "State-regulated incandescent reflector lamp" means a lamp that is not colored or designed for rough or vibration service applications, that has an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, and a rated voltage or voltage range that lies at least partially within 115 to 130 volts, and that falls into one of the following categories:

(a) A bulged reflector or elliptical reflector bulb shape and which has a diameter which equals or exceeds 2.25 inches;

(b) A reflector, parabolic aluminized reflector, or similar bulb shape and which has a diameter of 2.25 to 2.75 inches.

(19) "Torchiere" means a portable electric lighting fixture with a reflective bowl that directs light upward onto a ceiling so as to produce indirect

illumination on the surfaces below. "Torchiere" may include downward directed lamps in addition to the upward, indirect illumination.

(20) "Traffic signal module" means a standard (a) 8-inch or 200 mm or (b) 12-inch or 300 mm traffic signal indication, consisting of a light source, a lens, and all other parts necessary for operation.

(21) "Transformer" means a device consisting of two or more coils of insulated wire and that is designed to transfer alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

(22)(a) "Unit heater" means a self-contained, vented fan-type commercial space heater that uses natural gas or propane, and that is designed to be installed without ducts within a heated space.

(b) "Unit heater" does not include any products covered by federal standards established pursuant to 42 U.S.C. Sec. 6291 et seq. or any product that is a direct vent, forced flue heater with a sealed combustion burner.

NEW SECTION. Sec. 3. (1) This chapter applies to the following types of new products sold, offered for sale, or installed in the state: (a) Automatic commercial ice cube machines; (b) commercial clothes washers; (c) commercial prerinse spray valves; (d) commercial refrigerators and freezers; (e) illuminated exit signs; (f) low-voltage dry-type distribution transformers; (g) metal halide lamp fixtures; (h) single-voltage external AC to DC power supplies; (i) state-regulated incandescent reflector lamps; (j) torchieres; (k) traffic signal modules; and (l) unit heaters. This chapter applies equally to products whether they are sold, offered for sale, or installed as a stand-alone product or as a component of another product.

(2) This chapter does not apply to (a) new products manufactured in the state and sold outside the state, (b) new products manufactured outside the state and sold at wholesale inside the state for final retail sale and installation outside the state, (c) products installed in mobile manufactured homes at the time of construction or (d) products designed expressly for installation and use in recreational vehicles.

NEW SECTION. Sec. 4. The legislature establishes the following minimum efficiency standards for the types of new products set forth in section 3 of this act.

(1)(a) Automatic commercial ice cube machines must have daily energy use and daily water use no greater than the applicable values in the following table:

Equipment type	Type of cooling	Harvest rate (lbs. ice/24 hrs.)	Maximum energy use (kWh/100 lbs.)	Maximum condenser water use (gallons/100 lbs. ice)
Ice-making head	water	<500	7.80 - .0055H	200 - .022H
		>=500<1436	5.58 - .0011H	200 - .022H
		>=1436	4.0	200 - .022H
Ice-making head	air	450	10.26 - .0086H	Not applicable
		>=450	6.89 - .0011H	Not applicable
Remote condensing but not remote compressor	air	<1000	8.85 - .0038	Not applicable
		>=1000	5.10	Not applicable

Remote condensing and remote compressor	air	<934	8.85 - .0038H	Not applicable
		>=934	5.3	Not applicable
Self-contained models	water	<200	11.40 - .0190H	191 - .0315H
		>=200	7.60	191 - .0315H
Self-contained models	air	<175	18.0 - .0469H	Not applicable
		>=175	9.80	Not applicable

Where H = harvest rate in pounds per twenty-four hours which must be reported within 5% of the tested value. "Maximum water use" applies only to water used for the condenser.

(b) For purposes of this section, automatic commercial ice cube machines shall be tested in accordance with ARI 810-2003 test method as published by the air-conditioning and refrigeration institute. Ice-making heads include all automatic commercial ice cube machines that are not split system ice makers or self-contained models as defined in ARI 810-2003.

(2) Commercial clothes washers must have a minimum modified energy factor of 1.26. For the purposes of this section, capacity and modified energy factor are defined and measured in accordance with the current federal test method for clothes washers as found at 10 C.F.R. Sec. 430.23.

(3) Commercial prerinse spray valves must have a flow rate equal to or less than 1.6 gallons per minute when measured in accordance with the American society for testing and materials' "Standard Test Method for Prerinse Spray Valves," ASTM F2324-03.

(4)(a) Commercial refrigerators and freezers must meet the applicable requirements listed in the following table:

Equipment Type	Doors	Maximum Daily Energy Consumption (kWh)
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are refrigerators	Solid	0.10V + 2.04
	Transparent	0.12V + 3.34
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are "pulldown" refrigerators	Transparent	.126V + 3.51
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are freezers	Solid	0.40V + 1.38
	Transparent	0.75V + 4.10
Reach-in cabinets that are refrigerator-freezers with an AV of 5.19 or higher	Solid	0.27AV - 0.71

kWh = kilowatt hours

V = total volume (ft³)

AV = adjusted volume = [1.63 x freezer volume (ft³)] + refrigerator volume (ft³)

(b) For purposes of this section, "pulldown" designates products designed to take a fully stocked refrigerator with beverages at 90 degrees F and cool those beverages to a stable temperature of 38 degrees F within 12 hours or less. Daily energy consumption shall be measured in accordance with the American national standards institute/American society of heating, refrigerating and air-conditioning engineers test method 117-2002, except that the back-loading doors of pass-through and roll-through refrigerators and freezers must remain closed throughout the test, and except that the controls of all appliances must be adjusted to obtain the following product temperatures.

Product or compartment type	Integrated average product temperature in degrees Fahrenheit
Refrigerator	38 ± 2
Freezer	0 ± 2

(5) Illuminated exit signs must have an input power demand of five watts or less per illuminated face. For the purposes of this section, input power demand is measured in accordance with the United States environmental protection agency's energy star exit sign program's conditions for testing, version 3.0. Illuminated exit signs must meet all applicable building and safety codes.

(6)(a) Low-voltage dry-type distribution transformers shall have efficiencies not less than the applicable values in the following table when tested at thirty-five percent of the rated output power:

Single Phase			Three Phase		
Rated power output in kVa		Minimum efficiency %	Rated power output in kVa		Minimum efficiency %
≥ 15	<25	97.7	≥ 15	<30	97.0
≥ 25	<37.5	98.0	≥ 30	<45	97.5
≥ 37.5	<50	98.2	≥ 45	<75	97.7
≥ 50	<75	98.3	≥ 75	<112.5	98.0
≥ 75	<100	98.5	≥ 112.5	<150	98.2
≥ 100	<167	98.6	≥ 150	<225	98.3
≥ 167	<250	98.7	≥ 225	<300	98.5
≥ 250	<333	98.8	≥ 300	<500	98.6
333		98.9	≥ 500	<750	98.7
—		—	≥ 750	<1000	98.8
—		—	1000		98.9

kVa = kilovolt amperes

(b) For the purposes of this section, low-voltage dry-type distribution transformer efficiency is measured in accordance with the national electrical manufacturers association TP 2-1998 test method.

(7) Metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts shall not contain a probe-start metal halide lamp ballast.

(8)(a) Single-voltage external AC to DC power supplies shall meet the requirements in the following table:

Nameplate output	Minimum Efficiency in Active Mode
< 1 Watt	0.49 * Nameplate Output
> or = 1 Watt and < or = 49 Watts	0.09 * Ln (Nameplate Output) + 0.49
> 49 Watts	0.84
	Maximum Energy Consumption in No-Load Mode
< 10 Watts	0.5 Watts
> or = 10 Watts and < or = 250 Watts	0.75 Watts

Where Ln (Nameplate Output) - Natural Logarithm of the nameplate output expressed in Watts

(b) For the purposes of this section, efficiency of single-voltage external AC to DC power supplies shall be measured in accordance with the United States environmental protection agency's "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC to DC and AC to AC Power Supplies", by Ecos Consulting and Power Electronics Application Center, dated August 11, 2004.

(9)(a) State-regulated incandescent reflector lamps that are not 50 watt elliptical reflector lamps must meet the minimum efficacies in the following table:

Wattage	Minimum average lamp efficacy (lumens per watt)
40 - 50	10.5
51 - 66	11.0
67 - 85	12.5
86 - 115	14.0
116 - 155	14.5
156 - 205	15.0

(b) Lamp efficacy must be measured in accordance with the applicable federal test method as found at 10 C.F.R. Sec. 430.23.

(10) Torchieres may not use more than 190 watts. A torchiere is deemed to use more than 190 watts if any commercially available lamp or combination of lamps can be inserted in a socket and cause the torchiere to draw more than 190 watts when operated at full brightness.

(11)(a) Traffic signal modules must have maximum and nominal wattage that do not exceed the applicable values in the following table:

Module Type	Maximum Wattage (at 74°C)	Nominal Wattage (at 25°C)
12" red ball (or 300 mm circular)	17	11
8" red ball (or 200 mm circular)	13	8
12" red arrow (or 300 mm arrow)	12	9
12" green ball (or 300 mm circular)	15	15
8" green ball (or 200 mm circular)	12	12

12" green arrow (or 300 mm arrow)	11	11
-----------------------------------	----	----

mm = millimeter

(b) For the purposes of this section, maximum wattage and nominal wattage must be measured in accordance with and under the testing conditions specified by the institute for transportation engineers "Interim LED Purchase Specification, Vehicle Traffic Control Signal Heads, Part 2: Light Emitting Diode Vehicle Traffic Signal Modules."

(12) Unit heaters must be equipped with intermittent ignition devices and must have either power venting or an automatic flue damper.

NEW SECTION. Sec. 5. (1) On or after January 1, 2007, no new commercial prerinse spray valve, commercial clothes washer, commercial refrigerator or freezer, illuminated exit sign, low-voltage dry-type distribution transformer, single-voltage external AC to DC power supply, state-regulated incandescent reflector lamp, torchiere, traffic signal module, or unit heater may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in section 4 of this act. On or after January 1, 2008, no new automatic commercial ice cube machine or metal halide lamp fixtures may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in section 4 of this act.

(2) On or after January 1, 2008, no new commercial prerinse spray valve, commercial clothes washer, commercial refrigerator or freezer, illuminated exit sign, low-voltage dry-type distribution transformer, single-voltage external AC to DC power supply, state-regulated incandescent reflector lamp, torchiere, traffic signal module, or unit heater may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in section 4 of this act. On or after January 1, 2009, no new automatic commercial ice cube machine or metal halide lamp fixtures may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in section 4 of this act.

(3) Standards for metal halide lamp fixtures and state-regulated incandescent reflector lamps are effective on the dates in subsections (1) and (2) of this section.

NEW SECTION. Sec. 6. The department may recommend updates to the energy efficiency standards and test methods for products listed in section 3 of this act. The department may also recommend establishing state standards for additional nonfederally covered products. In making its recommendations, the department shall use the following criteria: (1) Multiple manufacturers produce products that meet the proposed standard at the time of recommendation, (2) products meeting the proposed standard are available at the time of recommendation, (3) the products are cost-effective to consumers on a life-cycle cost basis using average Washington resource rates, (4) the utility of the energy efficient product meets or exceeds the utility of the comparable product available for purchase, and (5) the standard exists in at least two other states in the United States. For recommendations concerning commercial clothes washers, the department must also consider the fiscal effects on the low-income, elderly, and student populations. Any recommendations shall be transmitted to the

appropriate committees of the legislature sixty days before the start of any regular legislative session.

NEW SECTION. Sec. 7. (1) The manufacturers of products covered by this chapter must test samples of their products in accordance with the test procedures under this chapter or those specified in the state building code.

(2) Manufacturers of new products covered by section 3 of this act, except for single-voltage external AC to DC power supplies, shall certify to the department that the products are in compliance with this chapter. This certification must be based on test results unless this chapter does not specify a test method. The department shall establish rules governing the certification of these products and may coordinate with the certification programs of other states and federal agencies with similar standards.

(3) Manufacturers of new products covered by section 3 of this act shall identify each product offered for sale or installation in the state as in compliance with this chapter by means of a mark, label, or tag on the product and packaging at the time of sale or installation. The department shall establish rules governing the identification of these products and packaging, which shall be coordinated to the greatest practical extent with the labeling programs of other states and federal agencies with equivalent efficiency standards.

(4) The department may test products covered by section 3 of this act. If products so tested are found not to be in compliance with the minimum efficiency standards established under section 4 of this act, the department shall: (a) Charge the manufacturer of the product for the cost of product purchase and testing; and (b) make information available to the public on products found not to be in compliance with the standards.

(5) The department shall obtain in paper form the test methods specified in section 4 of this act, which shall be available for public use at the department's energy policy offices.

(6) The department shall investigate complaints received concerning violations of this chapter. Any manufacturer or distributor who violates this chapter shall be issued a warning by the director of the department for any first violation. Repeat violations are subject to a civil penalty of not more than two hundred fifty dollars a day. Penalties assessed under this subsection are in addition to costs assessed under subsection (4) of this section.

(7) The department may adopt rules as necessary to ensure the proper implementation and enforcement of this chapter.

(8) The proceedings relating to this chapter are governed by the administrative procedure act, chapter 34.05 RCW.

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

NEW SECTION. Sec. 9. Sections 1 through 8 of this act constitute a new chapter in Title 19 RCW.

Passed by the House April 21, 2005.

Passed by the Senate April 6, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 299

[Substitute House Bill 1895]

ENERGY EFFICIENCY—GOVERNMENT ENTITIES

AN ACT Relating to statewide energy efficiency; amending RCW 44.39.010 and 44.39.070; adding a new section to chapter 44.39 RCW; adding new sections to chapter 43.19 RCW; and creating a new section.

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

Sec. 1. RCW 44.39.010 and 2001 c 214 s 30 are each amended to read as follows:

There is hereby created the joint committee on energy supply (~~(of the legislature of the state of Washington)~~) and energy conservation.

Sec. 2. RCW 44.39.070 and 2002 c 192 s 1 are each amended to read as follows:

(1) The committee shall meet and function at the following times: (a) At least once per year or at anytime upon the call of the chair to receive information related to the state or regional energy supply situation; (b) during a condition of energy supply alert or energy emergency; and (c) upon the call of the chair, in response to gubernatorial action to terminate such a condition. Upon the declaration by the governor of a condition of energy supply alert or energy emergency, the committee (~~(on energy supply)~~) shall meet to receive any plans proposed by the governor for programs, controls, standards, and priorities for the production, allocation, and consumption of energy during any current or anticipated condition of energy supply alert or energy emergency, any proposed plans for the suspension or modification of existing rules of the Washington Administrative Code, and any other relevant matters the governor deems desirable. The committee shall review such plans and matters and shall transmit its recommendations to the governor for review. The committee may review any voluntary programs or local or regional programs for the production, allocation, or consumption of energy which have been submitted to the committee.

(2) The committee shall receive any request from the governor for the approval of a declaration of a condition of energy emergency as provided in RCW 43.21G.040 as now or hereafter amended and shall either approve or disapprove such request.

(3) During a condition of energy supply alert, the committee shall: (a) Receive any request from the governor for an extension of the condition of energy supply alert for an additional period of time not to exceed ninety consecutive days and the findings upon which such request is based; (b) receive any request from the governor for subsequent extensions of the condition of energy supply alert for an additional period of time not to exceed one hundred twenty consecutive days and the findings upon which such a request is based; and (c) either approve or disapprove the requested extensions. When approving a request, the committee may specify a longer period than requested, up to ninety days for initial extensions and one hundred twenty days for additional extensions.

(4) During a condition of energy emergency the committee shall: (a) Receive any request from the governor for an extension of the condition of energy emergency for an additional period of time not to exceed forty-five consecutive days and the finding upon which any such request is based; (b)

receive any request from the governor for subsequent extensions of the condition of energy emergency for an additional period of time not to exceed sixty consecutive days and the findings upon which such a request is based; and (c) either approve or disapprove the requested extensions. When approving a request, the committee may specify a longer period than requested, up to forty-five days for initial extensions and sixty days for additional extensions.

NEW SECTION. Sec. 3. It is the intent of the legislature to utilize lessons learned from efforts to conserve energy usage in single state buildings or complexes and extend conservation measures across all levels of government. Implementing conservation measures across all levels of government will create actual energy conservation savings, maintenance and cost savings to state and local governments, and savings to the state economy, which depends on affordable, realizable electricity to retain jobs. The legislature intends that conservation measures be identified and aggregated within a government entity or among multiple government entities to maximize energy savings and project efficiencies.

NEW SECTION. Sec. 4. A new section is added to chapter 44.39 RCW to read as follows:

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

(1) "Committee" means the joint committee on energy supply and energy conservation.

(2) "Conservation" means reduced energy consumption or energy cost, or increased efficiency in the use of energy, and activities, measures, or equipment designed to achieve such results.

NEW SECTION. Sec. 5. A new section is added to chapter 43.19 RCW to read as follows:

(1) Municipalities may conduct energy audits and implement cost-effective energy conservation measures among multiple government entities.

(2) All municipalities shall report to the department if they implemented or did not implement, during the previous biennium, cost-effective energy conservation measures aggregated among multiple government entities. The reports must be submitted to the department by September 1, 2007, and by September 1, 2009. In collecting the reports, the department shall cooperate with the appropriate associations that represent municipalities.

(3) The department shall prepare a report summarizing the reports submitted by municipalities under subsection (2) of this section and shall report to the committee by December 31, 2007, and by December 31, 2009.

(4) For the purposes of this section, the following definitions apply:

(a) "Committee" means the joint committee on energy supply and energy conservation in chapter 44.39 RCW.

(b) "Cost-effective energy conservation measures" has the meaning provided in RCW 43.19.670.

(c) "Department" means the department of general administration.

(d) "Energy audit" has the meaning provided in RCW 43.19.670.

(e) "Municipality" has the meaning provided in RCW 39.04.010.

NEW SECTION. Sec. 6. A new section is added to chapter 43.19 RCW to read as follows:

Financing to implement conservation measures, including fees charged by the department, may be carried out with bonds issued by the Washington economic development finance authority under chapter 43.163 RCW.

Passed by the House April 20, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 300

[Substitute Senate Bill 5101]

RENEWABLE ENERGY INDUSTRIES—TAX CREDITS

AN ACT Relating to providing incentives to support renewable energy; adding new sections to chapter 82.16 RCW; creating new sections; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that the use of renewable energy resources generated from local sources such as solar and wind power benefit our state by reducing the load on the state's electric energy grid, by providing nonpolluting sources of electricity generation, and by the creation of jobs for local industries that develop and sell renewable energy products and technologies.

The legislature finds that Washington state has become a national and international leader in the technologies related to the solar electric markets. The state can support these industries by providing incentives for the purchase of locally made renewable energy products. Locally made renewable technologies benefit and protect the state's environment. The legislature also finds that the state's economy can be enhanced through the creation of incentives to develop additional renewable energy industries in the state.

The legislature intends to provide incentives for the greater use of locally created renewable energy technologies, support and retain existing local industries, and create new opportunities for renewable energy industries to develop in Washington state.

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

(1) "Customer-generated electricity" means the alternating current electricity that is generated from a renewable energy system located on an individual's, businesses', or local government's real property that is also provided electricity generated by a light and power business. A system located on a leasehold interest does not qualify under this definition. "Customer-generated electricity" does not include electricity generated by a light and power business with greater than one thousand megawatt hours of annual sales or a gas distribution business.

(2) "Economic development kilowatt-hour" means the actual kilowatt-hour measurement of customer-generated electricity multiplied by the appropriate economic development factor.

(3) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

(4) "Renewable energy system" means a solar energy system, an anaerobic digester as defined in RCW 82.08.900, or a wind generator used for producing electricity.

(5) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

(6) "Solar inverter" means the device used to convert direct current to alternating current in a photovoltaic cell system.

(7) "Solar module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

(8) "Standards for interconnection to the electric distribution system" means technical, engineering, operational, safety, and procedural requirements for interconnection to the electric distribution system of a light and power business.

NEW SECTION. Sec. 3. (1) Any individual, business, or local governmental entity, not in the light and power business or in the gas distribution business, may apply to the light and power business serving the situs of the system, each fiscal year beginning on July 1, 2005, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated electricity renewable energy system installed on its property that is not interconnected to the electric distribution system. No incentive may be paid for kilowatt-hours generated before July 1, 2005, or after June 30, 2014.

(2) When light and power businesses serving eighty percent of the total customer load in the state adopt uniform standards for interconnection to the electric distribution system, any individual, business, or local governmental entity, not in the light and power business or in the gas distribution business, may apply to the light and power business serving the situs of the system, each fiscal year, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated electricity renewable energy system installed on its property that is not interconnected to the electric distribution system and from a customer-generated electricity renewable energy system installed on its property that is interconnected to the electric distribution system. Uniform standards for interconnection to the electric distribution system means those standards established by light and power businesses that have ninety percent of total requirements the same. No incentive may be paid for kilowatt-hours generated before July 1, 2005, or after June 30, 2014.

(3)(a) Before submitting for the first time the application for the incentive allowed under this section, the applicant shall submit to the department of revenue and to the climate and rural energy development center at the Washington State University, established under RCW 28B.30.642, a certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system;

(ii) The applicant's tax registration number;

(iii) That the electricity produced by the applicant meets the definition of "customer-generated electricity" and that the renewable energy system produces electricity with:

(A) Any solar inverters and solar modules manufactured in Washington state;

(B) A wind generator powered by blades manufactured in Washington state;

(C) A solar inverter manufactured in Washington state;

(D) A solar module manufactured in Washington state; or

(E) Solar or wind equipment manufactured outside of Washington state;

(iv) That the electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems;

(v) The date that the renewable energy system received its final electrical permit from the applicable local jurisdiction.

(b) Within thirty days of receipt of the certification the department of revenue shall advise the applicant in writing whether the renewable energy system qualifies for an incentive under this section. The department may consult with the climate and rural energy development center to determine eligibility for the incentive. System certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(4)(a) By August 1st of each year application for the incentive shall be made to the light and power business serving the situs of the system by certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system;

(ii) The applicant's tax registration number;

(iii) The date of the letter from the department of revenue stating that the renewable energy system is eligible for the incentives under this section;

(iv) A statement of the amount of kilowatt-hours generated by the renewable energy system in the prior fiscal year.

(b) Within sixty days of receipt of the incentive certification the light and power business serving the situs of the system shall notify the applicant in writing whether the incentive payment will be authorized or denied. The business may consult with the climate and rural energy development center to determine eligibility for the incentive payment. Incentive certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(c)(i) Persons receiving incentive payments shall keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of incentive applied for and received. Such records shall be open for examination at any time upon notice by the light and power business that made the payment or by the department. If upon examination of any records or from other information obtained by the business or department it appears that an incentive has been paid in an amount that exceeds the correct amount of incentive payable, the business may assess against the person for the amount found to have been paid in excess of the correct amount of incentive payable and shall add thereto interest on the amount. Interest shall be assessed in the manner that the department assesses interest upon delinquent tax under RCW 82.32.050.

(ii) If it appears that the amount of incentive paid is less than the correct amount of incentive payable the business may authorize additional payment.

(5) The investment cost recovery incentive may be paid fifteen cents per economic development kilowatt-hour unless requests exceed the amount

authorized for credit to the participating light and power business. For the purposes of this section, the rate paid for the investment cost recovery incentive may be multiplied by the following factors:

(a) For customer-generated electricity produced using solar modules manufactured in Washington state, two and four-tenths;

(b) For customer-generated electricity produced using a solar or a wind generator equipped with an inverter manufactured in Washington state, one and two-tenths;

(c) For customer-generated electricity produced using an anaerobic digester, or by other solar equipment or using a wind generator equipped with blades manufactured in Washington state, one; and

(d) For all other customer-generated electricity produced by wind, eight-tenths.

(6) No individual, household, business, or local governmental entity is eligible for incentives for more than two thousand dollars per year.

(7) If requests for the investment cost recovery incentive exceed the amount of funds available for credit to the participating light and power business, the incentive payments shall be reduced proportionately.

(8) The climate and rural energy development center at Washington State University energy program may establish guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.

(9) The environmental attributes of the renewable energy system belong to the applicant, and do not transfer to the state or the light and power business upon receipt of the investment cost recovery incentive.

NEW SECTION. Sec. 4. (1) A light and power business shall be allowed a credit against taxes due under this chapter in an amount equal to investment cost recovery incentive payments made in any fiscal year under section 3 of this act. The credit shall be taken in a form and manner as required by the department. The credit under this section for the fiscal year shall not exceed twenty-five one-hundredths of one percent of the businesses' taxable power sales due under RCW 82.16.020(1)(b) or twenty-five thousand dollars, whichever is greater. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds shall not be granted in the place of credits. Expenditures not used to earn a credit in one fiscal year may not be used to earn a credit in subsequent years.

(2) For any business that has claimed credit for amounts that exceed the correct amount of the incentive payable under section 3 of this act, the amount of tax against which credit was claimed for the excess payments shall be immediately due and payable. The department shall assess interest but not penalties on the taxes against which the credit was claimed. Interest shall be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and shall accrue until the taxes against which the credit was claimed are repaid.

(3) The right to earn tax credits under this section expires June 30, 2015. Credits may not be claimed after June 30, 2016.

NEW SECTION. Sec. 5. (1) Using existing sources of information, the department shall report to the house appropriations committee, the house

committee dealing with energy issues, the senate committee on ways and means, and the senate committee dealing with energy issues by December 1, 2009. The report shall measure the impacts of this act, including the total number of solar energy system manufacturing companies in the state, any change in the number of solar energy system manufacturing companies in the state, and, where relevant, the effect on job creation, the number of jobs created for Washington residents, and such other factors as the department selects.

(2) The department shall not conduct any new surveys to provide the report in subsection (1) of this section.

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, 2005, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 7. Sections 2 through 5 of this act are each added to chapter 82.16 RCW.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005.

Passed by the Senate April 20, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 301

[Engrossed Second Substitute Senate Bill 5111]

SOLAR ENERGY—TAX CREDITS

AN ACT Relating to providing incentives to support the renewable energy industry in Washington state; reenacting and amending RCW 82.04.440; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.32 RCW; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that the welfare of the people of the state of Washington is positively impacted through the encouragement and expansion of key growth industries in the state. The legislature further finds that targeting tax incentives to focus on key growth industries is an important strategy to enhance the state's business climate.

A recent report by the Washington State University energy program recognized the solar electric industry as one of the state's important growth industries. It is of great concern that businesses in this industry have been increasingly expanding and relocating their operations elsewhere. The report indicates that additional incentives for the solar electric industry are needed in recognition of the unique forces and issues involved in business decisions in this industry.

Therefore, the legislature intends to enact comprehensive tax incentives for the solar electric industry that address activities of the manufacture of these products and to encourage these industries to locate in Washington. Tax incentives for the solar electric industry are important in both retention and expansion of existing business and attraction of new businesses, all of which will

strengthen this growth industry within our state, will create jobs, and will bring many indirect benefits to the state.

NEW SECTION. Sec. 2. A new section is added to chapter 82.04 RCW to read as follows:

(1) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing solar energy systems using photovoltaic modules, or silicon components of such systems; as to such persons the amount of tax with respect to such business shall, in the case of manufacturers, be equal to the value of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of 0.2904 percent.

(2) Beginning October 1, 2005, upon every person engaging within this state in the business of making sales at wholesale of solar energy systems using photovoltaic modules, or silicon components of such systems, manufactured by that person; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the solar energy systems using photovoltaic modules multiplied by the rate of 0.2904 percent.

(3) The definitions in this subsection apply throughout this section.

(a) "Module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

(b) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

(c) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

(4) This section expires June 30, 2014.

Sec. 3. RCW 82.04.440 and 2004 c 174 s 5 and 2004 c 24 s 7 are each reenacted and amended to read as follows:

(1) Every person engaged in activities which are within the purview of the provisions of two or more of sections RCW 82.04.230 to 82.04.298, inclusive, shall be taxable under each paragraph applicable to the activities engaged in.

(2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270, section 2(2) of this act, or 82.04.260 (4) or (13) with respect to selling products in this state shall be allowed a credit against those taxes for any (a) manufacturing taxes paid with respect to the manufacturing of products so sold in this state, and/or (b) extracting taxes paid with respect to the extracting of products so sold in this state or ingredients of products so sold in this state. Extracting taxes taken as credit under subsection (3) of this section may also be taken under this subsection, if otherwise allowable under this subsection. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

(3) Persons taxable under RCW 82.04.240 or 82.04.260(1)(b) shall be allowed a credit against those taxes for any extracting taxes paid with respect to extracting the ingredients of the products so manufactured in this state. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

(4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1), section 2(1) of this act, or 82.04.260 (1), (2), (4), (6), or (13) with respect to extracting or manufacturing products in this state shall be allowed a credit against those taxes for any (i) gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state, (ii) manufacturing taxes paid with respect to the manufacturing of products using ingredients so extracted in this state, or (iii) manufacturing taxes paid with respect to manufacturing activities completed in another state for products so manufactured in this state. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(5) For the purpose of this section:

(a) "Gross receipts tax" means a tax:

(i) Which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax; and

(ii) Which is also not, pursuant to law or custom, separately stated from the sales price.

(b) "State" means (i) the state of Washington, (ii) a state of the United States other than Washington, or any political subdivision of such other state, (iii) the District of Columbia, and (iv) any foreign country or political subdivision thereof.

(c) "Manufacturing tax" means a gross receipts tax imposed on the act or privilege of engaging in business as a manufacturer, and includes (i) the taxes imposed in RCW 82.04.240, 82.04.2909(1), ~~((and))~~ 82.04.260 (1), (2), (4), and (13), and section 2(1) of this act; and (ii) similar gross receipts taxes paid to other states.

(d) "Extracting tax" means a gross receipts tax imposed on the act or privilege of engaging in business as an extractor, and includes the tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to other states.

(e) "Business", "manufacturer", "extractor", and other terms used in this section have the meanings given in RCW 82.04.020 through 82.04.212, notwithstanding the use of those terms in the context of describing taxes imposed by other states.

NEW SECTION, Sec. 4. A new section is added to chapter 82.32 RCW to read as follows:

(1) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information on how a tax incentive is used.

(2)(a) A person who reports taxes under section 2 of this act shall make an annual report to the department detailing employment, wages, and employer-provided health and retirement benefits per job at the manufacturing site. The report shall not include names of employees. The report shall also detail employment by the total number of full-time, part-time, and temporary positions. The first report filed under this subsection shall include employment, wage, and benefit information for the twelve-month period immediately before first use of a preferential tax rate under section 2 of this act. The report is due by

March 31st following any year in which a preferential tax rate under section 2 of this act is used. This information is not subject to the confidentiality provisions of RCW 82.32.330.

(b) If a person fails to submit an annual report under (a) of this subsection, the department shall declare the amount of taxes reduced for the previous calendar year to be immediately due and payable. Excise taxes payable under this subsection are subject to interest, but not penalties, at the rate provided for delinquent taxes, as provided under this chapter. The department shall assess interest, retroactively to the date the preferential tax rate under section 2 of this act, was used. The interest shall be assessed at the rate provided for delinquent excise taxes under this chapter, and shall accrue until the taxes for which the preferential tax rate was used are repaid. This information is not subject to the confidentiality provisions of RCW 82.32.330.

NEW SECTION. Sec. 5. (1) Using existing sources of information, the department shall report to the house appropriations committee, the house committee dealing with energy issues, the senate committee on ways and means, and the senate committee dealing with energy issues by December 1, 2013. The report shall measure the impacts of this act, including the total number of solar energy system manufacturing companies in the state, any change in the number of solar energy system manufacturing companies in the state, and, where relevant, the effect on job creation, the number of jobs created for Washington residents, and any other factors the department selects.

(2) The department shall not conduct any new surveys to provide the report in subsection (1) of this section.

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 July 1, 2005.

Passed by the Senate April 20, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 302

[Second Substitute Senate Bill 5782]

LINKED DEPOSIT PROGRAM

AN ACT Relating to the linked deposit program; amending RCW 43.86A.030, 43.86A.060, 39.19.240, and 43.63A.690; adding a new section to chapter 43.86A RCW; creating a new section; and repealing RCW 43.131.381 and 43.131.382.

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

NEW SECTION. Sec. 1. The legislature intends that funds provided under the linked deposit program shall be used to create jobs and economic opportunity as well as to remedy the problem of a lack of access to capital by minority and women's business enterprises.

Sec. 2. RCW 43.86A.030 and 1993 c 512 s 33 are each amended to read as follows:

(1) Funds held in public depositories not as demand deposits as provided in RCW 43.86A.020 and 43.86A.030, shall be available for a time certificate of

deposit investment program according to the following formula: The state treasurer shall apportion to all participating depositories an amount equal to five percent of the three year average mean of general state revenues as certified in accordance with Article VIII, section 1(b) of the state Constitution, or fifty percent of the total surplus treasury investment availability, whichever is less. Within thirty days after certification, those funds determined to be available according to this formula for the time certificate of deposit investment program shall be deposited in qualified public depositories. These deposits shall be allocated among the participating depositories on a basis to be determined by the state treasurer.

(2) The state treasurer may use up to (~~(fifty)~~) one hundred million dollars per year of all funds available under this section for the purposes of RCW 43.86A.060. The amounts made available to these public depositories shall be equal to the amounts of outstanding loans made under RCW 43.86A.060.

(3) The formula so devised shall be a matter of public record giving consideration to, but not limited to deposits, assets, loans, capital structure, investments or some combination of these factors. However, if in the judgment of the state treasurer the amount of allocation for certificates of deposit as determined by this section will impair the cash flow needs of the state treasury, the state treasurer may adjust the amount of the allocation accordingly.

Sec. 3. RCW 43.86A.060 and 2002 c 305 s 1 are each amended to read as follows:

(1) The state treasurer shall establish a linked deposit program for investment of deposits in qualified public depositories. As a condition of participating in the program, qualified public depositories must make qualifying loans as provided in this section. The state treasurer may purchase a certificate of deposit that is equal to the amount of the qualifying loan made by the qualified public depository or may purchase a certificate of deposit that is equal to the aggregate amount of two or more qualifying loans made by one or more qualified public depositories.

(2) Qualifying loans made under this section are those:

(a) Having terms that do not exceed ten years;

(b) Where an individual loan does not exceed one million dollars;

(c) That are made to a minority or women's business enterprise that has received state certification under chapter 39.19 RCW;

(~~(d)~~) (d) Where the interest rate on the loan to the minority or women's business enterprise does not exceed an interest rate that is two hundred basis points below the interest rate the qualified public depository would charge for a loan for a similar purpose and a similar term, except that, if the preference given by the state treasurer to the qualified public depository under subsection (3) of this section is less than two hundred basis points, the qualified public depository may reduce the preference given on the loan by an amount that corresponds to the reduction in preference below two hundred basis points given to the qualified public depository; and

(~~(d)~~) (e) Where the points or fees charged at loan closing do not exceed one percent of the loan amount.

(3) In setting interest rates of time certificate of deposits, the state treasurer shall offer rates so that a two hundred basis point preference will be given to the qualified public depository, except that the treasurer shall lower the amount of

the preference to ensure that the effective interest rate on the time certificate of deposit is not less than two percent.

(4) Upon notification by the state treasurer that a minority or women's business enterprise is no longer certified under chapter 39.19 RCW, the qualified public depository shall reduce the amount of qualifying loans by the outstanding balance of the loan made under this section to the minority or women's business enterprise.

NEW SECTION. Sec. 4. A new section is added to chapter 43.86A RCW to read as follows:

Public depositories participating in the linked deposit program are encouraged to increase the funds available to certified minority and women's business enterprises by taking full advantage of the linked deposit program loans to qualify for the community reinvestment act community programs under federal law (12 U.S.C. Sec. 2901 et seq.).

Sec. 5. RCW 39.19.240 and 2002 c 305 s 2 are each amended to read as follows:

(1) The office shall, in consultation with the state treasurer and the department of community, trade, and economic development, compile information on minority and women's business enterprises that have received financial assistance through a qualified public depository under the provisions of RCW 43.86A.060. The information shall include, but is not limited to:

- (a) Name of the qualified public depository;
- (b) Geographic location of the minority or women's business enterprise;
- (c) Name of the minority or women's business enterprise;
- (d) Date of last certification by the office and certification number;
- (e) Type of business;
- (f) Amount and term of the loan to the minority or women's business enterprise; and
- (g) Other information the office deems necessary for the implementation of this section.

(2) The office shall notify the state treasurer of minority or women's business enterprises that are no longer certified under the provisions of this chapter. The written notification shall contain information regarding the reason for the decertification and information on financing provided to the minority or women's business enterprise under RCW 43.86A.060.

(3) The office shall, in consultation with the state treasurer and the department of community, trade, and economic development, monitor the performance of loans made to minority and women-owned business enterprises under RCW 43.86A.060.

Sec. 6. RCW 43.63A.690 and 2002 c 305 s 3 are each amended to read as follows:

(1) The department shall provide technical assistance and loan packaging services that enable minority and women-owned business enterprises to obtain financing under the linked deposit program created under RCW 43.86A.060.

~~(2) ((The department shall, in consultation with the state treasurer and office of minority and women's business enterprises, monitor the performance of loans made to minority and women-owned business enterprises under RCW 43.86A.060.~~

(3)) The department, in consultation with the office of minority and women's business enterprises, shall develop indicators to measure the performance of the linked deposit program in the areas of job creation or retention and providing access to capital to minority or women's business enterprises.

NEW SECTION. Sec. 7. The following acts or parts of acts are each repealed:

(1) RCW 43.131.381 (Linked deposit program—Termination) and 2002 c 305 s 4, 2001 c 316 s 1, 1994 c 126 s 2, & 1993 c 512 s 35; and

(2) RCW 43.131.382 (Linked deposit program—Repeal) and 2002 c 305 s 5, 2001 c 316 s 2, 1994 c 126 s 3, & 1993 c 512 s 36.

Passed by the Senate April 21, 2005.

Passed by the House April 11, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 303

[Engrossed Substitute Senate Bill 5396]

HABITAT CONSERVATION PROGRAMS

AN ACT Relating to expanding the criteria for habitat conservation programs; amending RCW 79A.15.010, 79A.15.030, 79A.15.040, 79A.15.050, 79A.15.060, 79A.15.070, 79A.15.080, 84.33.140, and 77.12.203; adding new sections to chapter 79A.15 RCW; adding a new section to chapter 79.70 RCW; adding a new section to chapter 79.71 RCW; creating new sections; providing effective dates; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 79A.15.010 and 1990 1st ex.s. c 14 s 2 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(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) "Committee" means the interagency committee for outdoor recreation.

(3) "Critical habitat" means lands important for the protection, management, or public enjoyment of certain wildlife species or groups of species, including, but not limited to, wintering range for deer, elk, and other species, waterfowl and upland bird habitat, fish habitat, and habitat for endangered, threatened, or sensitive species.

(4) "Farmlands" means any land defined as "farm and agricultural land" in RCW 84.34.020(2).

(5) "Local agencies" means a city, county, town, federally recognized Indian tribe, special purpose district, port district, or other political subdivision of the state providing services to less than the entire state.

~~((5))~~ (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.

~~((6))~~ (7) "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.

(8) "Special needs populations" means physically restricted people or people of limited means.

~~((7))~~ (9) "State agencies" means the state parks and recreation commission, the department of natural resources, the department of general administration, and the department of fish and wildlife.

(10) "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.

~~((8))~~ (11) "Urban wildlife habitat" means lands that provide habitat important to wildlife in proximity to a metropolitan area.

~~((9))~~ (12) "Water access" means boat or foot access to marine waters, lakes, rivers, or streams.

Sec. 2. RCW 79A.15.030 and 2000 c 11 s 66 are each amended to read as follows:

(1) Moneys appropriated for this chapter shall be divided ~~((equally between the habitat conservation and outdoor recreation accounts and shall be used exclusively for the purposes specified in this chapter))~~ 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 this act, 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) All moneys deposited in the habitat conservation ~~((and)),~~ outdoor recreation, riparian protection, and farmlands preservation accounts shall be allocated as provided under RCW 79A.15.040 ~~((and)),~~ 79A.15.050, and sections 6 and 7 of this act as grants to state or local agencies for acquisition, development, and renovation within the jurisdiction of those agencies, subject to legislative appropriation. The committee 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) Projects receiving grants under this chapter that are developed or otherwise accessible for public recreational uses shall be available to the public ~~((on a nondiscriminatory basis))~~.

(5) The committee may make grants to an eligible project from ~~((both))~~ the habitat conservation ~~((and))~~, outdoor recreation, riparian protection, and farmlands preservation accounts and any one or more of the applicable categories under such accounts described in RCW 79A.15.040 ~~((and))~~, 79A.15.050, and sections 6 and 7 of this act.

(6) The committee may accept private donations to the habitat conservation account, the outdoor recreation account, the riparian protection account, and the farmlands preservation account for the purposes specified in this chapter.

(7) The committee may apply up to three percent of the funds appropriated for this chapter for the administration of the programs and purposes specified in this chapter.

(8) Habitat and recreation land and facilities acquired or developed with moneys appropriated for this chapter may not, without prior approval of the committee, be converted to a use other than that for which funds were originally approved. The committee shall adopt rules and procedures governing the approval of such a conversion.

Sec. 3. RCW 79A.15.040 and 1999 c 379 s 917 are each amended to read as follows:

(1) Moneys appropriated for this chapter to the habitat conservation account shall be distributed in the following way:

(a) Not less than ~~((thirty five))~~ forty-five 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 ~~((twenty))~~ thirty percent for the acquisition and development of natural areas;

(c) Not less than ~~((fifteen))~~ twenty percent for the acquisition and development of urban wildlife habitat; and

~~((The remaining amount shall be considered unallocated and))~~ Not less than ten percent through June 30, 2011, at which time the amount shall become five percent, shall be used by the committee to fund ~~((high priority acquisition and development needs for critical habitat, natural areas, and urban wildlife habitat. During the fiscal biennium ending June 30, 2001, the remaining amount reappropriated from the fiscal biennium ending June 30, 1999, may be allocated for matching grants for riparian zone habitat protection projects that implement watershed plans under the program established in section 329(6), chapter 235, Laws of 1997))~~ 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)(a) In distributing these funds, the committee retains discretion to meet the most pressing needs for critical habitat, natural areas, and urban wildlife habitat, and is not required to meet the percentages described in subsection (1) 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 subsection (1) of this section in any biennium, the committee retains discretion to distribute any remaining funds to the other categories within the account.

(3) Only state agencies may apply for acquisition and development funds for ~~((critical habitat and))~~ natural areas projects under subsection (1)~~((a,))~~ ~~((b))~~ ~~((c))~~ ~~((d))~~ of this section.

(4) State and local agencies may apply for acquisition and development funds for critical habitat and urban wildlife habitat projects under subsection (1)~~(a)~~ ~~(c)~~ ~~((and (d)))~~ of this section.

(5)(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 sections 11 and 12 of this act.

Sec. 4. RCW 79A.15.050 and 2003 c 184 s 1 are each amended to read as follows:

(1) Moneys appropriated for this chapter to the outdoor recreation account shall be distributed in the following way:

(a) Not less than ~~((twenty-five))~~ thirty percent to the state parks and recreation commission for the acquisition and development of state parks, with at least ~~((seventy-five))~~ fifty percent of ~~((this))~~ the money for acquisition costs~~((: However, between July 27, 2003, and June 30, 2009, at least fifty percent of this money for the acquisition and development of state parks must be used for acquisition costs))~~;

(b) Not less than ~~((twenty-five))~~ 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 ~~((fifteen))~~ twenty percent for the acquisition ~~((and))~~, renovation, or development of trails;

(d) Not less than ~~((ten))~~ fifteen percent for the acquisition ~~((and))~~, renovation, or development of water access sites, with at least seventy-five percent of this money for acquisition costs; and

(e) ~~((The remaining amount shall be considered unallocated and shall be distributed by the committee to state and local agencies to fund high priority acquisition and development needs for parks, trails, and water access sites))~~ 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)~~(a)~~ In distributing these funds, the committee 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 subsection (1) 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 subsection (1) of

this section in any biennium, the committee retains discretion to distribute any remaining funds to the other categories within the account.

(3) Only local agencies may apply for acquisition, development, or renovation funds for local parks under subsection (1)(b) of this section.

(4) Only state and local agencies may apply for funds for trails under subsection (1)(c) of this section.

(5) Only state and local agencies may apply for funds for water access sites under subsection (1)(d) of this section.

NEW SECTION. Sec. 5. A new section is added to chapter 79A.15 RCW to read as follows:

A state or local agency shall review the proposed project application 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 committee identifying the authority's position with regard to the acquisition project. The committee shall make the letters received under this section available to the governor and the legislature when the prioritized project list is submitted under section 6 of this act, RCW 79A.15.060, and 79A.15.070.

NEW SECTION. Sec. 6. A new section is added to chapter 79A.15 RCW to read as follows:

(1) The riparian protection account is established in the state treasury. The committee must 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 committee.

(2) Moneys appropriated for this chapter to the riparian protection account must be distributed for the acquisition or enhancement or restoration of riparian habitat. All enhancement or restoration projects, except those qualifying under subsection (10)(a) of this section, must include the acquisition of a real property interest in order to be eligible.

(3) State and local agencies and lead entities under chapter 77.85 RCW may apply for acquisition and enhancement or restoration funds for riparian habitat projects under subsection (1) 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 funds under this section.

(4) The committee may adopt rules establishing acquisition policies and priorities for distributions from the riparian protection account.

(5) Except as provided in RCW 79A.15.030(7), moneys appropriated for this section may not be used by the committee 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.

(6) 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, and signing.

(7) Moneys appropriated for this section may be used to fund mitigation banking projects involving the restoration, creation, enhancement, or preservation of riparian habitat, provided that the parties seeking to use the mitigation bank meet the matching requirements of subsection (8) of this

section. The moneys from this section may not be used to supplant an obligation of a state or local agency to provide mitigation. For the purposes of this section, a mitigation bank means a site or sites where riparian habitat is restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized project impacts to similar resources.

(8) The committee may not approve a local project where the local agency share is less than the amount to be awarded from the riparian protection account. In-kind contributions, including contributions of a real property interest in land may be used to satisfy the local agency's share.

(9) State agencies receiving grants for acquisition of land under this section must pay an amount in lieu of real property taxes equal to the amount of tax that would be due if the land were taxable as open space land under chapter 84.34 RCW except taxes levied for any state purpose, plus an additional amount for control of noxious weeds equal to that which would be paid if such lands were privately owned. The county assessor and county legislative authority shall assist in determining the appropriate calculation of the amount of tax that would be due.

(10) In determining acquisition priorities with respect to the riparian protection account, the committee must consider, at a minimum, the following criteria:

(a) 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 shall be eligible. Such applications are eligible for a conservation lease extension of at least twenty-five years of duration;

(b) Whether the projects are identified or recommended in a watershed planning process under chapter 247, Laws of 1998, salmon recovery planning under chapter 77.85 RCW, or other local plans, such as habitat conservation plans, and these must be highly considered in the process;

(c) Whether there is community support for the project;

(d) 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;

(e) Whether there is an immediate threat to the site;

(f) 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;

(g) 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;

(h) Whether the site has educational or scientific value; and

(i) Whether the site has passive recreational values for walking trails, wildlife viewing, or the observation of natural settings.

(11) Before November 1st of each even-numbered year, the committee will recommend to the governor a prioritized list of projects to be funded under this

section. The governor may remove projects from the list recommended by the committee and will 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. 7. A new section is added to chapter 79A.15 RCW to read as follows:

(1) The farmlands preservation account is established in the state treasury. The committee 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 committee. Moneys appropriated for this chapter to the farmlands preservation account must be distributed for the acquisition and preservation of farmlands in order to maintain the opportunity for agricultural 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. In order for a farmland 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 or county acquires a property through this program in fee simple, the city or county 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 or county 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) Cities and counties may apply for acquisition and enhancement or restoration funds for farmland preservation projects within their jurisdictions under subsection (1) of this section.

(4) The committee may adopt rules establishing acquisition and enhancement or restoration policies and priorities for distributions from the farmlands preservation account.

(5) The acquisition of a property right in a project under this section by a county or city 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) Except as provided in RCW 79A.15.030(7), moneys appropriated for this section may not be used by the committee to fund staff positions or other overhead expenses, or by a city or county to fund operation or maintenance of areas acquired under this chapter.

(7) 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, and signing.

(8) The committee may not approve a local project where the local agency's share is less than the amount to be awarded from the farmlands preservation

account. In-kind contributions, including contributions of a real property interest in land, may be used to satisfy the local agency's share.

(9) In determining the acquisition priorities, the committee 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) In allotting funds for environmental enhancement or restoration projects, the committee 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) Before November 1st of each even-numbered year, the committee 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 committee 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.

Sec. 8. RCW 79A.15.060 and 2000 c 11 s 67 are each amended to read as follows:

(1) The committee 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), moneys appropriated for this chapter may not be used by the committee to fund ((additional)) staff positions or other overhead expenses, or by a state, regional, or local agency to fund operation ((and)) or maintenance of areas acquired under this chapter((; except that the committee may use moneys appropriated for this chapter for the fiscal biennium ending June 30, 2001, for the administrative costs of implementing the pilot watershed plan implementation program established in section 329(6), chapter 235, Laws of 1997, and developing an inventory of publicly owned lands established in section 329(7), chapter 235, Laws of 1997)).

(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, and signing.

(4) ~~((Except as provided in subsection (5) of this section,))~~ Moneys appropriated for this section may be used to fund mitigation banking projects involving the restoration, creation, enhancement, or preservation of critical habitat and urban wildlife habitat, provided that the parties seeking to use the mitigation bank meet the matching requirements of subsection (5) of this section. The moneys from this section may not be used to supplant an obligation of a state or local agency to provide mitigation. For the purposes of this section, a mitigation bank means a site or sites where critical habitat or urban wildlife habitat is restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized project impacts to similar resources.

(5) The committee 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) During the fiscal biennium ending June 30, 2001, the committee may approve a riparian zone habitat protection project established in section 329(6), chapter 235, Laws of 1997, where the local agency share is less than the amount to be awarded from the habitat conservation account.))~~

(6) In determining acquisition priorities with respect to the habitat conservation account, the committee shall consider, at a minimum, the following criteria:

(a) For critical habitat and natural areas proposals:

(i) Community support for the project;

(ii) The project proposal's 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;

(iii) 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) Immediacy of threat to the site;

~~((iii))~~ (v) Uniqueness of the site;

~~((iv))~~ (vi) Diversity of species using the site;

~~((v))~~ (vii) Quality of the habitat;

~~((vi))~~ (viii) Long-term viability of the site;

~~((vii))~~ (ix) Presence of endangered, threatened, or sensitive species;

~~((viii))~~ (x) Enhancement of existing public property;

~~((ix))~~ (xi) 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; ~~(and~~

~~((x))~~ (xii) Educational and scientific value of the site;

(xii) Integration with recovery efforts for endangered, threatened, or sensitive species;

(xiv) For critical habitat proposals by local agencies, 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.

(7) ~~((Before October 1st of each even-numbered year, the committee shall recommend to the governor a prioritized list of state agency 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 committee 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 shall describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.~~

~~((8))~~ Before ~~((October))~~ November 1st of each even-numbered year, the committee 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 committee 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. 9. RCW 79A.15.070 and 2000 c 11 s 68 are each amended to read as follows:

(1) In determining which state parks proposals and local parks proposals to fund, the committee shall use existing policies and priorities.

(2) Except as provided in RCW 79A.15.030(7), moneys appropriated for this chapter may not be used by the committee to fund ~~((additional))~~ staff or other overhead expenses, or by a state, regional, or local agency to fund operation ~~((and))~~ or maintenance of areas acquired under this chapter~~((, except~~

~~that the committee may use moneys appropriated for this chapter for the fiscal biennium ending June 30, 2001, for the administrative costs of implementing the pilot watershed plan implementation program established in section 329(6), chapter 235, Laws of 1997, and developing an inventory of publicly owned lands established in section 329(7), chapter 235, Laws of 1997).~~

(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 committee 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.

(5) The committee 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 committee 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 ~~((an existing))~~ 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; ~~((and))~~

(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 October 1st of each even-numbered year, the committee shall recommend to the governor a prioritized list of state agency projects to be funded under RCW 79A.15.050(1) (a), (c), and (d). The governor may remove projects from the list recommended by the committee 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 shall describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.~~

~~(8))~~ Before ((October)) November 1st of each even-numbered year, the committee 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 committee 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. 10. RCW 79A.15.080 and 1990 1st ex.s. c 14 s 9 are each amended to read as follows:

The committee 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 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.

NEW SECTION. **Sec. 11.** A new section is added to chapter 79.70 RCW to read as follows:

The state treasurer, on behalf of the department, must distribute to counties for all lands acquired for the purposes of this chapter an amount in lieu of real property taxes equal to the amount of tax that would be due if the land were taxable as open space land under chapter 84.34 RCW except taxes levied for any state purpose, plus an additional amount equal to the amount of weed control assessment that would be due if such lands were privately owned. The county assessor and county legislative authority shall assist in determining the appropriate calculation of the amount of tax that would be due. The county shall distribute the amount received under this section in lieu of real property taxes to all property taxing districts except the state in appropriate tax code areas the same way it would distribute local property taxes from private property. The county shall distribute the amount received under this section for weed control to the appropriate weed district.

NEW SECTION. **Sec. 12.** A new section is added to chapter 79.71 RCW to read as follows:

The state treasurer, on behalf of the department, must distribute to counties for all lands acquired for the purposes of this chapter an amount in lieu of real property taxes equal to the amount of tax that would be due if the land were taxable as open space land under chapter 84.34 RCW except taxes levied for any state purpose, plus an additional amount equal to the amount of weed control assessment that would be due if such lands were privately owned. The county assessor and county legislative authority shall assist in determining the appropriate calculation of the amount of tax that would be due. The county shall distribute the amount received under this section in lieu of real property taxes to all property taxing districts except the state in appropriate tax code areas the same way it would distribute local property taxes from private property. The county shall distribute the amount received under this section for weed control to the appropriate weed district.

Sec. 13. RCW 84.33.140 and 2003 c 170 s 5 are each amended to read as follows:

(1) When land has been designated as forest land under RCW 84.33.130, a notation of the designation shall be made each year upon the assessment and tax

rolls. A copy of the notice of approval together with the legal description or assessor's parcel numbers for the land shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded.

(2) In preparing the assessment roll as of January 1, 2002, for taxes payable in 2003 and each January 1st thereafter, the assessor shall list each parcel of designated forest land at a value with respect to the grade and class provided in this subsection and adjusted as provided in subsection (3) of this section. The assessor shall compute the assessed value of the land using the same assessment ratio applied generally in computing the assessed value of other property in the county. Values for the several grades of bare forest land shall be as follows:

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
	1	\$234
1	2	229
	3	217
	4	157
	1	198
2	2	190
	3	183
	4	132
	1	154
3	2	149
	3	148
	4	113
	1	117
4	2	114
	3	113
	4	86
	1	85
5	2	78
	3	77
	4	52
	1	43
6	2	39
	3	39
	4	37
	1	21
7	2	21
	3	20

(3) On or before December 31, 2001, the department shall adjust by rule under chapter 34.05 RCW, the forest land values contained in subsection (2) of this section in accordance with this subsection, and shall certify the adjusted values to the assessor who will use these values in preparing the assessment roll as of January 1, 2002. For the adjustment to be made on or before December 31, 2001, for use in the 2002 assessment year, the department shall:

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1996, and June 30, 2001, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1995, and June 30, 2000, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(c) Adjust the forest land values contained in subsection (2) of this section by a percentage equal to one-half of the percentage change in the average values of harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

(4) For the adjustments to be made on or before December 31, 2002, and each succeeding year thereafter, the same procedure described in subsection (3) of this section shall be followed using harvester excise tax returns filed under RCW 84.33.074. However, this adjustment shall be made to the prior year's adjusted value, and the five-year periods for calculating average harvested timber values shall be successively one year more recent.

(5) Land graded, assessed, and valued as forest land shall continue to be so graded, assessed, and valued until removal of designation by the assessor upon the occurrence of any of the following:

(a) Receipt of notice from the owner to remove the designation;

(b) Sale or transfer to an ownership making the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of forest land designation continuance, except transfer to an owner who is an heir or devisee of a deceased owner, shall not, by itself, result in removal of designation. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.150. The notice of continuance shall be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated under subsection (11) of this section shall become due and payable by the seller or transferor at time of sale. The auditor shall not accept an instrument of conveyance regarding designated forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (11) of this section to the county board of equalization in

accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that:

(i) The land is no longer primarily devoted to and used for growing and harvesting timber. However, land shall not be removed from designation if a governmental agency, organization, or other recipient identified in subsection (13) or (14) of this section as exempt from the payment of compensating tax has manifested its intent in writing or by other official action to acquire a property interest in the designated forest land by means of a transaction that qualifies for an exemption under subsection (13) or (14) of this section. The governmental agency, organization, or recipient shall annually provide the assessor of the county in which the land is located reasonable evidence in writing of the intent to acquire the designated land as long as the intent continues or within sixty days of a request by the assessor. The assessor may not request this evidence more than once in a calendar year;

(ii) The owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW or any applicable rules under Title 76 RCW; or

(iii) Restocking has not occurred to the extent or within the time specified in the application for designation of such land.

(6) Land shall not be removed from designation if there is a governmental restriction that prohibits, in whole or in part, the owner from harvesting timber from the owner's designated forest land. If only a portion of the parcel is impacted by governmental restrictions of this nature, the restrictions cannot be used as a basis to remove the remainder of the forest land from designation under this chapter. For the purposes of this section, "governmental restrictions" includes: (a) Any law, regulation, rule, ordinance, program, or other action adopted or taken by a federal, state, county, city, or other governmental entity; or (b) the land's zoning or its presence within an urban growth area designated under RCW 36.70A.110.

(7) The assessor shall have the option of requiring an owner of forest land to file a timber management plan with the assessor upon the occurrence of one of the following:

(a) An application for designation as forest land is submitted; or

(b) Designated forest land is sold or transferred and a notice of continuance, described in subsection (5)(c) of this section, is signed.

(8) If land is removed from designation because of any of the circumstances listed in subsection (5)(a) through (c) of this section, the removal shall apply only to the land affected. If land is removed from designation because of subsection (5)(d) of this section, the removal shall apply only to the actual area of land that is no longer primarily devoted to the growing and harvesting of timber, without regard to any other land that may have been included in the application and approved for designation, as long as the remaining designated forest land meets the definition of forest land contained in RCW 84.33.035.

(9) Within thirty days after the removal of designation as forest land, the assessor shall notify the owner in writing, setting forth the reasons for the

removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038.

(10) Unless the removal is reversed on appeal a copy of the notice of removal with a notation of the action, if any, upon appeal, together with the legal description or assessor's parcel numbers for the land removed from designation shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded and a notation of removal from designation shall immediately be made upon the assessment and tax rolls. The assessor shall revalue the land to be removed with reference to its true and fair value as of January 1st of the year of removal from designation. Both the assessed value before and after the removal of designation shall be listed. Taxes based on the value of the land as forest land shall be assessed and payable up until the date of removal and taxes based on the true and fair value of the land shall be assessed and payable from the date of removal from designation.

(11) Except as provided in subsection (5)(c), (13), or (14) of this section, a compensating tax shall be imposed on land removed from designation as forest land. The compensating tax shall be due and payable to the treasurer thirty days after the owner is notified of the amount of this tax. As soon as possible after the land is removed from designation, the assessor shall compute the amount of compensating tax and mail a notice to the owner of the amount of compensating tax owed and the date on which payment of this tax is due. The amount of compensating tax shall be equal to the difference between the amount of tax last levied on the land as designated forest land and an amount equal to the new assessed value of the land multiplied by the dollar rate of the last levy extended against the land, multiplied by a number, in no event greater than nine, equal to the number of years for which the land was designated as forest land, plus compensating taxes on the land at forest land values up until the date of removal and the prorated taxes on the land at true and fair value from the date of removal to the end of the current tax year.

(12) Compensating tax, together with applicable interest thereon, shall become a lien on the land which shall attach at the time the land is removed from designation as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(13) The compensating tax specified in subsection (11) of this section shall not be imposed if the removal of designation under subsection (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) A donation of fee title, development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections, or the sale or transfer of fee title to a governmental entity or a nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW or approved for state natural resources conservation area purposes as defined in chapter 79.71 RCW. At such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (11) of this section shall be imposed upon the current owner;

(d) The sale or transfer of fee title to the parks and recreation commission for park and recreation purposes;

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present use of the land;

(f) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(g) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040;

(h) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under this chapter, or classified under chapter 84.34 RCW continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (13)(h); or

(i) The sale or transfer of land after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under this chapter, or classified under chapter 84.34 RCW continuously since 1993 and the sale or transfer takes place after July 22, 2001, and on or before July 22, 2003, and the death of the owner occurred after January 1, 1991. The date of death shown on a death certificate is the date used for the purposes of this subsection (13)(i).

(14) In a county with a population of more than one million inhabitants, the compensating tax specified in subsection (11) of this section shall not be imposed if the removal of designation as forest land under subsection (5) of this section resulted solely from:

(a) An action described in subsection (13) of this section; or

(b) A transfer of a property interest to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, to protect or enhance public resources, or to preserve, maintain, improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment, the property interest being transferred. At such time as the property interest is not used for the purposes enumerated, the compensating tax shall be imposed upon the current owner.

Sec. 14. RCW 77.12.203 and 1990 1st ex.s. c 15 s 11 are each amended to read as follows:

(1) Notwithstanding RCW 84.36.010 or other statutes to the contrary, the director shall pay by April 30th of each year on game lands in each county, if requested by an election under RCW 77.12.201, an amount in lieu of real

property taxes equal to that amount paid on similar parcels of open space land taxable under chapter 84.34 RCW or the greater of seventy cents per acre per year or the amount paid in 1984 plus an additional amount for control of noxious weeds equal to that which would be paid if such lands were privately owned. This amount shall not be assessed or paid on department buildings, structures, facilities, game farms, fish hatcheries, tidelands, or public fishing areas of less than one hundred acres.

(2) "Game lands," as used in this section and RCW 77.12.201, means those tracts one hundred acres or larger owned in fee by the department and used for wildlife habitat and public recreational purposes. All lands purchased for wildlife habitat, public access or recreation purposes with federal funds in the Snake River drainage basin shall be considered game lands regardless of acreage.

(3) This section shall not apply to lands transferred after April 23, 1990, to the department from other state agencies.

(4) The county shall distribute the amount received under this section in lieu of real property taxes to all property taxing districts except the state in appropriate tax code areas the same way it would distribute local property taxes from private property. The county shall distribute the amount received under this section for weed control to the appropriate weed district.

NEW SECTION. Sec. 15. (1) The interagency committee for outdoor recreation may apply up to three percent of the funds appropriated for chapter 79A.15 RCW for the administration of the programs and purposes specified in chapter 79A.15 RCW.

(2) Habitat and recreation land and facilities acquired or developed with moneys appropriated for chapter 79A.15 RCW may not, without prior approval of the interagency committee for outdoor recreation, be converted to a use other than that for which funds were originally approved. The interagency committee for outdoor recreation shall adopt rules and procedures governing the approval of such a conversion.

(3) This section expires July 1, 2007.

NEW SECTION. Sec. 16. (1) The interagency committee for outdoor recreation, the department of fish and wildlife, the department of natural resources, and counties shall work together to obtain necessary information to complete a report on the fiscal impact of payments in lieu of taxes provided for in this act.

(2) The report shall include a financial analysis determining the difference by county, for those counties having less than thirty percent of their total land in private ownership, of assessing property taxes on lands acquired under chapter 79A.15 RCW by state agencies based on one hundred percent of a property's true and fair value compared to assessing property as open space under chapter 84.34 RCW. The analysis shall also compare the fiscal impacts of using these different property tax rates by those counties for existing game lands held by the department of fish and wildlife and natural areas managed by the department of natural resources.

(3) The interagency committee for outdoor recreation shall provide the report to the appropriate committees of the legislature by December 1, 2005.

NEW SECTION. Sec. 17. Sections 1 through 14 of this act take effect July 1, 2007.

NEW SECTION. Sec. 18. Section 15 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005.

Passed by the Senate April 19, 2005.

Passed by the House April 14, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 304

[Engrossed Substitute Senate Bill 5432]

OIL SPILL ADVISORY COUNCIL

AN ACT Relating to the oil spill advisory council; amending RCW 90.56.005 and 90.56.060; and adding new sections to chapter 90.56 RCW.

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

Sec. 1. RCW 90.56.005 and 2004 c 226 s 2 are each amended to read as follows:

(1) The legislature declares that (~~the increasing reliance on~~) water borne transportation as a source of supply for oil and hazardous substances poses special concern for the state of Washington. Each year billions of gallons of crude oil and refined petroleum products are transported as cargo and fuel by vessels on the navigable waters of the state. These shipments are expected to increase in the coming years. Vessels transporting oil into Washington travel on some of the most unique and special marine environments in the United States. These marine environments are a source of natural beauty, recreation, and economic livelihood for many residents of this state. As a result, the state has an obligation to ensure the citizens of the state that the waters of the state will be protected from oil spills.

(2) The legislature finds that prevention is the best method to protect the unique and special marine environments in this state. The technology for containing and cleaning up a spill of oil or hazardous substances is (~~in the early stages of development~~) at best only partially effective. Preventing spills is more protective of the environment and more cost-effective when all the response and damage costs associated with responding to a spill are considered. Therefore, the legislature finds that the primary objective of the state is to (~~adopt~~) achieve a zero spills strategy to prevent any oil or hazardous substances from entering waters of the state.

(3) The legislature also finds that:

(a) Recent accidents in Washington, Alaska, southern California, Texas, Pennsylvania, and other parts of the nation have shown that the transportation, transfer, and storage of oil have caused significant damage to the marine environment;

(b) Even with the best efforts, it is nearly impossible to remove all oil that is spilled into the water, and average removal rates are only fourteen percent;

(c) Washington's navigable waters are treasured environmental and economic resources that the state cannot afford to place at undue risk from an oil spill; ~~(and)~~

(d) The state has a fundamental responsibility, as the trustee of the state's natural resources and the protector of public health and the environment to prevent the spill of oil; and

(e) In section 5002 of the federal oil pollution act of 1990, the United States congress found that many people believed that complacency on the part of industry and government was one of the contributing factors to the Exxon Valdez spill and, further, that one method to combat this complacency is to involve local citizens in the monitoring and oversight of oil spill plans. Congress also found that a mechanism should be established that fosters the long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals. Moreover, congress concluded that, in addition to Alaska, a program of citizen monitoring and oversight should be established in other major crude oil terminals in the United States because recent oil spills indicate that the safe transportation of oil is a national problem.

(4) In order to establish a comprehensive prevention and response program to protect Washington's waters and natural resources from spills of oil, it is the purpose of this chapter:

(a) To establish state agency expertise in marine safety and to centralize state activities in spill prevention and response activities;

(b) To prevent spills of oil and to promote programs that reduce the risk of both catastrophic and small chronic spills;

(c) To ensure that responsible parties are liable, and have the resources and ability, to respond to spills and provide compensation for all costs and damages;

(d) To provide for state spill response and wildlife rescue planning and implementation;

(e) To support and complement the federal oil pollution act of 1990 and other federal law, especially those provisions relating to the national contingency plan for cleanup of oil spills and discharges, including provisions relating to the responsibilities of state agencies designated as natural resource trustees. The legislature intends this chapter to be interpreted and implemented in a manner consistent with federal law;

(f) To provide broad powers of regulation to the department of ecology relating to spill prevention and response;

(g) To provide for an independent ~~((oversight board))~~ oil spill advisory council to review on an ongoing basis the adequacy of oil spill prevention, preparedness, and response activities in this state; and

(h) To provide an adequate funding source for state response and prevention programs.

NEW SECTION. Sec. 2. A new section is added to chapter 90.56 RCW to read as follows:

(1)(a) There is established in the office of the governor the oil spill advisory council.

(b) The primary purpose of the council is to maintain the state's vigilance in, by ensuring an emphasis on, the prevention of oil spills to marine waters, while recognizing the importance of also improving preparedness and response.

(c) The council shall be an advisory body only.

(2)(a) In addition to members appointed under (b) of this subsection, the council is composed of the chair-facilitator and sixteen members representing various interests as follows:

(i) Three representatives of environmental organizations;

(ii) One representative of commercial shellfish interests;

(iii) One representative of commercial fisheries that primarily fishes in Washington waters;

(iv) One representative of marine recreation;

(v) One representative of tourism interests;

(vi) Three representatives of county government from counties bordering Puget Sound, the Columbia river/Pacific Ocean, and the Strait of Juan de Fuca/San Juan Islands;

(vii) One representative of marine labor;

(viii) Two representatives of marine trade interests;

(ix) One representative of major oil facilities;

(x) One representative of public ports; and

(xi) An individual who resides on a shoreline who has an interest, experience, and familiarity in the protection of water quality.

(b) In addition to the members identified in this subsection, the governor shall invite the participation of tribal governments through the appointment of two representatives to the council.

(3) Appointments to the council shall reflect a geographical balance and the diversity of populations within the areas potentially affected by oil spills to state waters.

(4) Members shall be appointed by the governor and shall serve four-year terms, except the initial members appointed to the council. Initial members to the council shall be appointed as follows: Six shall serve two-year terms, six shall serve three-year terms, and seven shall serve four-year terms. Vacancies shall be filled by appointment in the same manner as the original appointment for the remainder of the unexpired term of the position vacated. Members serve at the pleasure of the governor.

(5) The governor shall appoint a chair-facilitator who shall serve as a nonvoting member of the council. The chair shall not be an employee of a state agency, nor shall the chair have a financial interest in matters relating to oil spill prevention, preparedness, and response. The chair shall convene the council at least four times per year. At least one meeting per year shall be held in a Columbia river community, an ocean coastal community, and a Puget Sound community. The chair shall consult with councilmembers in setting agendas and determining meeting times and locations.

(6) All members shall be reimbursed for travel expenses while attending meetings of the council or technical advisory committees as provided in RCW 43.03.050 and 43.03.060. Members of the council identified in subsection (2)(a)(i), (ii), (iii), (iv), (v), (vi), (vii), and (xi) of this section shall be compensated on a per diem basis as a class two group according to RCW 43.03.230.

(7) The first meeting of the council shall be convened by the governor or the governor's designee. Other meetings may be convened by a vote of at least a majority of the voting members of the council, or by call of the chair. All

meetings are subject to the open public meetings act. The council shall maintain minutes of all meetings.

(8) To the extent possible, all decisions of the council shall be by the consensus of the members. If consensus is not possible, nine voting members of the council may call for a vote on a matter. When a vote is called, all decisions shall be determined by a majority vote of the voting members present. Two-thirds of the voting members are required to be present for a quorum for all votes. The subject matter of all votes and the vote tallies shall be recorded in the minutes of the council.

(9) The council may form subcommittees and technical advisory committees.

NEW SECTION. Sec. 3. A new section is added to chapter 90.56 RCW to read as follows:

(1) The duties of the council include:

(a) Selection and hiring of professional staff and expert consultants to support the work of the council;

(b) Early consultation with government decision makers in relation to the state's oil spill prevention, preparedness, and response programs, analyses, rule making, and related oil spill activities;

(c) Providing independent advice, expertise, research, monitoring, and assessment for review of and necessary improvements to the state's oil spill prevention, preparedness, and response programs, analyses, rule making, and other decisions, including those of the Northwest area committee, as well as the adequacy of funding for these programs;

(d) Monitoring and providing information to the public as well as state and federal agencies regarding state of the art oil spill prevention, preparedness, and response programs;

(e) Actively seeking public comments on and proposals for specific measures to improve the state's oil spill prevention, preparedness, and response program, including measures to improve the effectiveness of the Northwest area committee;

(f) Evaluating incident response reports and making recommendations to the department regarding improvements;

(g) Consulting with the department on lessons learned and agency progress on necessary actions in response to lessons learned;

(h) Promoting opportunities for the public to become involved in oil spill response activities and provide assistance to community groups with an interest in oil spill prevention and response, and coordinating with the department on the development and implementation of a citizens' involvement plan;

(i) Serving as an advisory body to the department on matters relating to international, national, and regional issues concerning oil spill prevention, preparedness, and response, and providing a mechanism for stakeholder and public consideration of federal actions relating to oil spill preparedness, prevention, and response in or near the waters of the state with recommended changes or improvements in federal policies on these matters;

(j) Accepting moneys from appropriations, gifts, grants, or donations for the purposes of this section; and

(k) Any other activities necessary to maintain the state's vigilance in preventing oil spills.

(2) The council shall establish a work plan for accomplishing the duties identified in subsection (1) of this section.

(3) The council is not intended to address issues related to spills involving hazardous substances.

(4) By September 15, 2006, the council shall recommend to the governor and appropriate committees of the legislature, proposals for the long-term funding of the council's activities and for the long-term sustainable funding for oil spill preparedness, prevention, and response activities.

(5) By September 1st of each year, the council shall make recommendations for the continuing improvement of the state's oil spill prevention, preparedness, and response activities through a report to the governor, the director, and the appropriate committees of the senate and house of representatives.

Sec. 4. RCW 90.56.060 and 2004 c 226 s 4 are each amended to read as follows:

(1) The department shall prepare and annually update a statewide master oil and hazardous substance spill prevention and contingency plan. In preparing the plan, the department shall consult with an advisory committee representing diverse interests concerned with oil and hazardous substance spills, including the United States coast guard, the federal environmental protection agency, state agencies, local governments, port districts, private facilities, environmental organizations, oil companies, shipping companies, containment and cleanup contractors, tow companies, ~~((and))~~ hazardous substance manufacturers, and with the oil spill advisory council.

(2) The state master plan prepared under this section shall at a minimum:

(a) Take into consideration the elements of oil spill prevention and contingency plans approved or submitted for approval pursuant to this chapter and chapter 88.46 RCW and oil and hazardous substance spill contingency plans prepared pursuant to other state or federal law or prepared by federal agencies and regional entities;

(b) State the respective responsibilities as established by relevant statutes and rules of each of the following in the prevention of and the assessment, containment, and cleanup of a worst case spill of oil or hazardous substances into the environment of the state: (i) State agencies; (ii) local governments; (iii) appropriate federal agencies; (iv) facility operators; (v) property owners whose land or other property may be affected by the oil or hazardous substance spill; and (vi) other parties identified by the department as having an interest in or the resources to assist in the containment and cleanup of an oil or hazardous substance spill;

(c) State the respective responsibilities of the parties identified in (b) of this subsection in an emergency response;

(d) Identify actions necessary to reduce the likelihood of spills of oil and hazardous substances;

(e) Identify and obtain mapping of environmentally sensitive areas at particular risk to oil and hazardous substance spills;

(f) Establish an incident command system for responding to oil and hazardous substances spills; and

(g) Establish a process for immediately notifying affected tribes of any oil spill.

(3) In preparing and updating the state master plan, the department shall:

(a) Consult with federal, provincial, municipal, and community officials, other state agencies, the state of Oregon, and with representatives of affected regional organizations;

(b) Submit the draft plan to the public for review and comment;

(c) Submit to the appropriate standing committees of the legislature for review, not later than November 1st of each year, the plan and any annual revision of the plan; and

(d) Require or schedule unannounced oil spill drills as required by RCW 90.56.260 to test the sufficiency of oil spill contingency plans approved under RCW 90.56.210.

(4) The department shall evaluate the functions of advisory committees created by the department regarding oil spill prevention, preparedness, and response programs, and shall revise or eliminate those functions which are no longer necessary.

Passed by the Senate April 21, 2005.

Passed by the House April 20, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 305

[Engrossed Senate Bill 5381]

ACADEMY OF SCIENCES

AN ACT Relating to the Washington academy of sciences; 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 legislature finds that public policies and programs will be improved when informed by independent scientific analysis and communication with state and local policymakers. Throughout the state there are highly qualified persons in a wide range of scientific disciplines who are willing to contribute their time and expertise in such reviews, but that presently there is lacking an organizational structure in which the entire scientific community may most effectively respond to requests for assessments of complex public policy questions. Therefore it is the purpose of this act to authorize the creation of the Washington academy of sciences as a nonprofit entity independent of government, whose principal mission will be the provision of scientific analysis and recommendations on questions referred to the academy by the governor, the governor's designee, or the legislature.

NEW SECTION. Sec. 2. The Washington academy of sciences authorized to be formed under section 3 of this act shall serve as a principal source of scientific investigation, examination, and reporting on scientific questions referred to the academy by the governor or the legislature under the provisions of section 4 of this act. Nothing in this section or this chapter supersedes or diminishes the responsibilities performed by scientists employed by the state or its political subdivisions.

NEW SECTION. Sec. 3. (1) The presidents of the University of Washington and Washington State University shall jointly form and serve as the cochairs of an organizing committee for the purpose of creating the Washington

academy of sciences as an independent entity to carry out the purposes of this chapter. The committee should be representative of appropriate disciplines from the academic, private, governmental, and research sectors.

(2) Staff from the University of Washington and Washington State University, and from other available entities, shall provide support to the organizing committee under the direction of the cochairs.

(3)(a) The committee shall investigate organizational structures that will ensure the participation or membership in the academy of scientists and experts with distinction in their fields, and that will ensure broad participation among the several disciplines that may be called upon in the investigation, examination, and reporting upon questions referred to the academy by the governor or the legislature.

(b) The organizational structure shall include a process by which the academy responds to inquiries from the governor or the legislature, including but not limited to the identification of research projects, past or present, at Washington or other research institutions and the findings of such research projects.

(4) The committee cochairs shall use their best efforts to form the committee by January 1, 2006, and to complete the committee's review by April 30, 2007. By April 30, 2007, the committee, or such individuals as the committee selects, shall file articles of incorporation to create the academy as a Washington independent organizational entity. The articles shall expressly recognize the power and responsibility of the academy to provide services as described in section 4 of this act upon request of the governor, the governor's designee, or the legislature. The articles shall also provide for a board of directors of the academy that includes distinguished scientists from the range of disciplines that may be called upon to provide such services to the state and its political subdivisions, and provide a balance of representation from the academic, private, governmental, and research sectors.

(5) The articles shall provide for all such powers as may be appropriate or necessary to carry out the academy's purposes under this chapter, to the full extent allowable under the proposed organizational structure.

NEW SECTION, Sec. 4. (1) The academy shall investigate, examine, and report on any subject of science requested by the governor, the governor's designee, or the legislature. The procedures for selecting panels of experts to respond to such requests shall be set forth in the bylaws or other appropriate operating guidelines. In forming review panels, the academy shall endeavor to assure that the panel members have no conflicts of interest and that proposed panelists first disclose any advocacy positions or financial interest related to the questions to be addressed by the panel that the candidate has held within the past ten years.

(2) The governor shall provide funding to the academy for the actual expense of such investigation, examination, and reports. Such funding shall be in addition to state funding assistance to the academy in its initial years of operation as described in section 6 of this act.

NEW SECTION, Sec. 5. The academy may carry out functions or provide services to its members and the public in addition to the services provided under

section 4 of this act, such as public education programs, newsletters, web sites, science fairs, and research assistance.

NEW SECTION. Sec. 6. The organizational committee shall recommend procedures and funding requirements for receiving and disbursing funding in support of the academy's programs and services in a report to the governor and the appropriate committees of the senate and house of representatives no later than April 30, 2007.

NEW SECTION. Sec. 7. Sections 1 through 5 of this act constitute a new chapter in Title 70 RCW.

Passed by the Senate April 16, 2005.

Passed by the House April 6, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 306

[Engrossed Second Substitute House Bill 1605]

SOIL CONTAMINATION—CHILDREN'S EXPOSURE

AN ACT Relating to protecting children from area-wide soil contamination; 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 legislature finds that state and local agencies are currently implementing actions to reduce children's exposure to soils that contain hazardous substances. The legislature further finds that it is in the public interest to enhance those efforts in western Washington in areas located within the central Puget Sound smelter plume.

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

(1) "Area-wide soil contamination" means low to moderate arsenic and lead soil contamination dispersed over a large geographic area.

(2) "Child care facility" means a child day-care center or a family day-care provider as those terms are defined under RCW 74.15.020.

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

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

(5) "Low to moderate soil contamination" means low level arsenic or lead concentrations where a child's exposure to soil contamination at a school or a child care facility may be reduced through best management practices.

(6) "School" means a public or private kindergarten, elementary, or secondary school.

NEW SECTION. Sec. 3. (1) The department, in cooperation with the department of social and health services, the department of health, the office of the superintendent of public instruction, and local health districts, shall assist schools and child care facilities west of the crest of the Cascade mountains to reduce the potential for children's exposure to area-wide soil contamination.

(2) The department shall:

(a) Identify schools and child care facilities that are located within the central Puget Sound smelter plume based on available information;

(b) Conduct qualitative evaluations to determine the potential for children's exposure to area-wide soil contamination;

(c) If the qualitative evaluation determines that children may be routinely exposed to area-wide soil contamination at a property, conduct soil samples at that property by December 31, 2009; and

(d) If soil sample results confirm the presence of area-wide soil contamination, notify schools and child care facilities regarding the test results and the steps necessary for implementing best management practices.

(3) If a school or a child care facility with area-wide soil contamination does not implement best management practices within six months of receiving written notification from the department, the superintendent or board of directors of a school or the owner or operator of a child care facility must notify parents and guardians in writing of the results of soil tests. The written notice shall be prepared by the department.

(4) The department shall recognize schools and child care facilities that successfully implement best management practices with a voluntary certification letter confirming that the facility has successfully implemented best management practices.

(5) Schools and child care facilities must work with the department to provide the department with site access for soil sampling at times that are the most convenient for all parties.

NEW SECTION. Sec. 4. (1) The department shall assist schools and owners and operators of child care facilities located within the central Puget Sound smelter plume. Such assistance may include the following:

(a) Technical assistance in conducting qualitative evaluations to determine where area-wide soil contamination exposures could occur;

(b) Technical and financial assistance in testing soils where evaluations indicate potential for contamination; and

(c) Technical and financial assistance to implement best management practices.

(2) The department shall develop best management practice guidelines for schools and day care facilities with area-wide soil contamination. The guidelines shall recommend a range of methods for reducing exposure to contaminated soil, considering the concentration, extent, and location of contamination and the nature and frequency of child use of the area.

(3) The department shall develop a grant program to assist schools and child care facilities with implementing best management practices.

(4) The department, within available funds, may provide grants to schools and child care facilities for the purpose of implementing best management practices.

(5) The department, within available funds, may provide financial assistance to the department of health and the department of social and health services to implement this chapter.

(6) The department may, through an interagency agreement, authorize a local health jurisdiction to administer any activity in this chapter that is otherwise not assigned to a local health jurisdiction by this chapter.

(7) The department shall evaluate actions to reduce child exposure to contaminated soils and submit progress reports to the governor and to the

appropriate committees of the legislature by December 31, 2006, and December 31, 2008.

NEW SECTION. Sec. 5. The department of health shall assist the department in implementing this chapter, including but not limited to developing best management practices and guidelines.

NEW SECTION. Sec. 6. The department of social and health services shall assist the department by providing information on the location of child care facilities and contacts for these facilities.

NEW SECTION. Sec. 7. This chapter does not apply to land devoted primarily to the commercial production of livestock or agricultural commodities.

NEW SECTION. Sec. 8. Nothing in this chapter is intended to change ongoing actions or the authority of the department or other agencies to require actions to address soil contamination under existing laws.

NEW SECTION. Sec. 9. Sections 1 through 8 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 10. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2005, in the omnibus appropriations act, this act is null and void.

Passed by the House April 18, 2005.

Passed by the Senate April 7, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 307

[Engrossed Second Substitute House Bill 1896]

GEODUCKS—HOOD CANAL

AN ACT Relating to geoduck harvest in Hood Canal; adding new sections to chapter 79.96 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 79.96 RCW to read as follows:

The department shall conduct a study to determine if changes to the geoduck populations in Hood Canal have occurred over time. The department's study shall compare prior population surveys with current surveys conducted as part of this study. The study shall incorporate geoduck beds representative of the northern, central, and southern areas of Hood Canal. No later than January 1, 2006, the department shall submit a report describing the study results to the appropriate committees of the legislature.

NEW SECTION. Sec. 2. A new section is added to chapter 79.96 RCW to read as follows:

The department shall conduct a study to assess the relationship between the Hood Canal's geoduck population levels and environmental conditions, including dissolved oxygen concentrations. To conduct this study, the department shall establish geoduck index stations near the department of ecology's Hood Canal water sampling stations. The index stations shall include

stations representative of the northern, central, and southern areas of Hood Canal. No later than December 1, 2007, the department shall submit a report describing the study results to the appropriate committees of the legislature.

NEW SECTION. Sec. 3. A new section is added to chapter 79.96 RCW to read as follows:

The department shall conduct a study to establish an age profile and analyze the shell oxidation rate of Hood Canal geoduck. To conduct this study, the department shall establish sampling stations representative of the northern, central, and southern areas of Hood Canal. No later than December 1, 2007, the department shall submit a report describing the study results to the appropriate committees of the legislature.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act expire July 1, 2008.

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, 2005, in the omnibus appropriations act, this act is null and void.

Passed by the House March 11, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 308

[Engrossed Senate Bill 5355]

SALMON AND STEELHEAD RECOVERY

AN ACT Relating to salmon and steelhead recovery; and amending RCW 77.85.200.

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

Sec. 1. RCW 77.85.200 and 2001 c 135 s 1 are each amended to read as follows:

(1) A program for salmon and steelhead recovery is established in Clark, Cowlitz, Lewis, Skamania, and Wahkiakum counties within the habitat areas classified as the lower Columbia evolutionarily significant ~~((unit 4))~~ units by the federal national marine fisheries service. The management board created under subsection (2) of this section is responsible for ~~((implementing the habitat portion of the approved))~~ developing and overseeing the implementation of the habitat portion of the salmon and steelhead recovery ~~((initiative))~~ plan and is empowered to receive and disburse funds for the ~~((approved))~~ salmon and steelhead recovery initiatives. The management board created pursuant to this section shall constitute the lead entity and the committee established under RCW 77.85.050 responsible for fulfilling the requirements and exercising powers under this chapter.

(2) A management board consisting of fifteen voting members is created within the lower Columbia evolutionarily significant ~~((unit 4))~~ units. The members shall consist of one county commissioner or designee from each of the five participating counties selected by each county legislative authority; one member representing the cities contained within the lower Columbia evolutionarily significant ~~((unit 4))~~ units as a voting member selected by the

cities in the lower Columbia evolutionarily significant (~~(unit 4)~~) units; a representative of the Cowlitz Tribe appointed by the tribe; one state legislator elected from one of the legislative districts contained within the lower Columbia evolutionarily significant (~~(unit 4)~~) units selected by that group of state legislators representing the area; five representatives to include at least one member who represents private property interests appointed by the five county commissioners or designees; one hydro utility representative nominated by hydro utilities and appointed by the five county commissioners or designees; and one representative nominated from the environmental community who resides in the lower Columbia evolutionarily significant (~~(unit 4)~~) units appointed by the five county commissioners or designees. The board shall appoint and consult a technical advisory committee, which shall include four representatives of state agencies one each appointed by the directors of the departments of ecology, fish and wildlife, and transportation, and the commissioner of public lands. The board may also appoint additional persons to the technical advisory committee as needed. The chair of the board shall be selected from among the members of the management board by the five county commissioners or designees and the legislator on the board. In making appointments under this subsection, the county commissioners shall consider recommendations of interested parties. Vacancies shall be filled in the same manner as the original appointments were selected. No action may be brought or maintained against any management board member, the management board, or any of its agents, officers, or employees for any noncontractual acts or omissions in carrying out the purposes of this section.

(3)(a) The management board shall participate in the development of a habitat recovery plan to implement its responsibilities under (b) of this subsection. The management board shall consider local watershed efforts and activities as well as habitat conservation plans in the development and implementation of the recovery plan. Any of the participating counties may continue its own efforts for restoring steelhead habitat. Nothing in this section limits the authority of units of local government to enter into interlocal agreements under chapter 39.34 RCW or any other provision of law.

(b) The management board is responsible for (~~implementing the habitat portions of the local government responsibilities of the lower Columbia steelhead conservation initiative approved by the state and the national marine fisheries service~~) the development of a lower Columbia salmon and steelhead habitat recovery plan and for coordinating and monitoring the implementation of the plan. The management board will submit all future plans and amendments to plans to the governor's salmon recovery office for the incorporation of hatchery, harvest, and hydropower components of the statewide salmon recovery strategy for all submissions to the national marine fisheries service. In developing and implementing the habitat recovery plan, the management board will work with appropriate federal and state agencies, tribal governments, local governments, and the public to make sure hatchery, harvest, and hydropower components receive consideration in context with the habitat component. The management board may work in cooperation with the state and the national marine fisheries service to modify the (~~initiative~~) plan, or to address habitat for other aquatic species that may be subsequently listed under the federal endangered species act. The management board may not exercise authority over land or water within the

individual counties or otherwise preempt the authority of any units of local government.

(c) The management board shall prioritize as appropriate and approve projects and programs related to the recovery of lower Columbia river salmon and steelhead runs, including the funding of those projects and programs, and coordinate local government efforts as prescribed in the recovery plan. The management board shall establish criteria for funding projects and programs based upon their likely value in salmon and steelhead recovery. The management board may consider local economic impact among the criteria, but jurisdictional boundaries and factors related to jurisdictional population may not be considered as part of the criteria.

(d) The management board shall assess the factors for decline along each ~~((prioritized stream as listed))~~ tributary basin in the lower Columbia ~~((steelhead conservation initiative))~~. The management board is encouraged to take a stream-by-stream approach in conducting the assessment which utilizes state and local expertise, including volunteer groups, interest groups, and affected units of local government.

(4) The management board has the authority to hire and fire staff, including an executive director, enter into contracts, accept grants and other moneys, disburse funds, make recommendations to cities and counties about potential code changes and the development of programs and incentives upon request, pay all necessary expenses, and may choose a fiduciary agent. The management board shall report on its progress on a ~~((quarterly))~~ biennial basis to the legislative bodies of the five participating counties and the state natural resource-related agencies. The management board shall prepare a final report at the conclusion of the program describing its efforts and successes in developing and implementing the ~~((habitat portion of the))~~ lower Columbia salmon and steelhead ~~((conservation initiative))~~ recovery plan. The final report shall be transmitted to the appropriate committees of the legislature, the legislative bodies of the participating counties, and the state natural resource-related agencies.

(5) The program terminates on July 1, ~~((2006))~~ 2010.

(6) For purposes of this section, "evolutionarily significant unit" means the habitat area identified for an evolutionarily significant unit of an aquatic species listed or proposed for listing as a threatened or endangered species under the federal endangered species act (16 U.S.C. Sec. 1531 et seq.).

Passed by the Senate April 16, 2005.

Passed by the House April 7, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 309

[Substitute Senate Bill 5610]

SALMON RECOVERY

AN ACT Relating to salmon recovery and watershed health; amending RCW 77.85.005, 77.85.010, 77.85.020, 77.85.030, 77.85.040, 77.85.050, 77.85.090, and 77.85.150; reenacting and amending RCW 77.85.130; repealing RCW 77.85.070 and 77.85.210; and providing an expiration date.

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

Sec. 1. RCW 77.85.005 and 1999 sp.s. c 13 s 1 are each amended to read as follows:

The legislature finds that repeated attempts to improve salmonid fish runs throughout the state of Washington have failed to avert listings of salmon and steelhead runs as threatened or endangered under the federal endangered species act (16 U.S.C. Sec. 1531 et seq.). These listings threaten the sport, commercial, and tribal fishing industries as well as the economic well-being and vitality of vast areas of the state. It is the intent of the legislature to begin activities required for the recovery of salmon stocks as soon as possible, although the legislature understands that successful recovery efforts may not be realized for many years because of the life cycle of salmon and the complex array of natural and human-caused problems they face.

The legislature finds that it is in the interest of the citizens of the state of Washington for the state to retain primary responsibility for managing the natural resources of the state, rather than abdicate those responsibilities to the federal government, and that the state may best accomplish this objective by integrating local and regional recovery activities into a statewide (~~plan~~) strategy that can make the most effective use of provisions of federal laws allowing for a state lead in salmon recovery, delivered through implementation activities consistent with regional and watershed recovery plans. The legislature also finds that a statewide salmon recovery (~~plan~~) strategy must be developed and implemented through an active public involvement process in order to ensure public participation in, and support for, salmon recovery. The legislature also finds that there is a substantial link between the provisions of the federal endangered species act and the federal clean water act (33 U.S.C. Sec. 1251 et seq.). The legislature further finds that habitat restoration is a vital component of salmon recovery efforts. Therefore, it is the intent of the legislature to specifically address salmon habitat restoration in a coordinated manner and to develop a structure that allows for the coordinated delivery of federal, state, and local assistance to communities for habitat projects that will assist in the recovery and enhancement of salmon stocks. A strong watershed-based locally implemented plan is essential for local, regional, and statewide salmon recovery.

The legislature also finds that credible scientific review and oversight is essential for any salmon recovery effort to be successful.

The legislature further finds that it is important to monitor the overall health of the salmon resource to determine if recovery efforts are providing expected returns. It is important to monitor salmon habitat projects and salmon recovery activities to determine their effectiveness in order to secure federal acceptance of the state's approach to salmon recovery. Adaptive management cannot exist without monitoring. For these reasons, the legislature believes that a coordinated and integrated monitoring (~~process~~) system should be developed and implemented.

The legislature therefore finds that a coordinated framework for responding to the salmon crisis is needed immediately. To that end, the salmon recovery office should be created within the governor's office to provide overall coordination of the state's response; an independent science panel is needed to provide scientific review and oversight; a coordinated state funding process should be established through a salmon recovery funding board; the appropriate

local or tribal government should provide local leadership in identifying and sequencing habitat projects to be funded by state agencies; habitat projects should be implemented without delay; and a strong locally based effort to restore salmon habitat should be established by providing a framework to allow citizen volunteers to work effectively.

Sec. 2. RCW 77.85.010 and 2002 c 210 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) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Critical pathways methodology" means a project scheduling and management process for examining interactions between habitat projects and salmonid species, prioritizing habitat projects, and assuring positive benefits from habitat projects.

(3) "Habitat project list" is the list of projects resulting from the critical pathways methodology under RCW 77.85.060(2). Each project on the list must have a written agreement from the landowner on whose land the project will be implemented. Projects include habitat restoration projects, habitat protection projects, habitat projects that improve water quality, habitat projects that protect water quality, habitat-related mitigation projects, and habitat project maintenance and monitoring activities.

(4) "Habitat work schedule" means those projects from the habitat project list that will be implemented during the current funding cycle. The schedule shall also include a list of the entities and individuals implementing projects, the start date, duration, estimated date of completion, estimated cost, and funding sources for the projects.

(5) "Limiting factors" means conditions that limit the ability of habitat to fully sustain populations of salmon. These factors are primarily fish passage barriers and degraded estuarine areas, riparian corridors, stream channels, and wetlands.

(6) "Project sponsor" is a county, city, special district, tribal government, state agency, a combination of such governments through interlocal or interagency agreements, a nonprofit organization, regional fisheries enhancement group, or one or more private citizens. A project sponsored by a state agency may be funded by the board only if it is included on the habitat project list submitted by the lead entity for that area and the state agency has a local partner that would otherwise qualify as a project sponsor.

(7) "Regional recovery organization" or "regional salmon recovery organization" means an entity formed under RCW 77.85.090 for the purpose of recovering salmon, which is recognized in statute or by the salmon recovery office.

(8) "Salmon" includes all species of the family Salmonidae which are capable of self-sustaining, natural production.

~~((8))~~ (9) "Salmon recovery plan" means a state or regional plan developed in response to a proposed or actual listing under the federal endangered species act that addresses limiting factors including, but not limited to harvest, hatchery, hydropower, habitat, and other factors of decline.

~~((9))~~ (10) "Salmon recovery region" means geographic areas of the state identified or formed under RCW 77.85.090 that encompass groups of watersheds in the state with common stocks of salmon identified for recovery activities, and that generally are consistent with the geographic areas within the state identified by the national oceanic and atmospheric administration or the United States fish and wildlife service for activities under the federal endangered species act.

(11) "Salmon recovery strategy" means the strategy adopted under RCW 77.85.150 and includes the compilation of all subbasin and regional salmon recovery plans developed in response to a proposed or actual listing under the federal endangered species act with state hatchery, harvest, and hydropower plans compiled in accordance with RCW 77.85.150.

(12) "Tribe" or "tribes" means federally recognized Indian tribes.

~~((10))~~ (13) "WRIA" means a water resource inventory area established in chapter 173-500 WAC as it existed on January 1, 1997.

~~((11))~~ (14) "Owner" means the person holding title to the land or the person under contract with the owner to lease or manage the legal owner's property.

Sec. 3. RCW 77.85.020 and 1998 c 246 s 4 are each amended to read as follows:

~~((Beginning in))~~ (1) By December ~~((2000))~~ 1, 2006, the governor shall submit a ~~((biennial state of the salmon))~~ report to the legislature ~~((during the first week of December))~~ regarding the implementation of the state's salmon recovery strategy. The report may include the following:

~~((1))~~ (a) A description of the amount of in-kind and financial contributions, including volunteer, private, and state, federal, tribal as available, and local government money directly spent on salmon recovery in response to actual, proposed, or expected endangered species act listings;

~~((2))~~ (b) A summary of habitat projects including but not limited to:

~~((a))~~ (i) A summary of accomplishments in removing barriers to salmon passage and an identification of existing barriers;

~~((b))~~ (ii) A summary of salmon restoration efforts undertaken in the past two years;

~~((c))~~ (iii) A summary of the role which private volunteer initiatives contribute in salmon habitat restoration efforts; and

~~((4))~~ (iv) A summary of efforts taken to protect salmon habitat;

~~((3))~~ (c) A summary of collaborative efforts undertaken with adjoining states or Canada;

~~((4))~~ (d) A summary of harvest and hatchery management activities affecting salmon recovery;

~~((5))~~ (e) A summary of information regarding impediments to successful salmon recovery efforts;

~~((6))~~ (f) A summary of the number and types of violations of existing laws pertaining to: ~~((a))~~ (i) Water quality; and ~~((b))~~ (ii) salmon. The summary shall include information about the types of sanctions imposed for these violations;

~~((7))~~ (g) Information on the estimated carrying capacity of new habitat created pursuant to chapter 246, Laws of 1998; and

~~((8))~~ (h) Recommendations to the legislature that would further the success of salmon recovery. The recommendations may include:

~~((a))~~ (i) The need to expand or improve nonregulatory programs and activities; ~~(and~~

~~(b))~~ (ii) The need to expand or improve state and local laws and regulations; and

(iii) Recommendations for state funding assistance to recovery activities and projects.

(2) The report shall summarize the monitoring data coordinated by the monitoring forum. The summary must include but is not limited to data and analysis related to:

(a) Measures of progress in fish recovery;

(b) Measures of factors limiting recovery as well as trends in such factors; and

(c) The status of implementation of projects and activities.

Sec. 4. RCW 77.85.030 and 2000 c 107 s 93 are each amended to read as follows:

(1) The salmon recovery office is created within the office of the governor to coordinate state strategy to allow for salmon recovery to healthy sustainable population levels with productive commercial and recreational fisheries. The primary purpose of the office is to coordinate and assist in the development of regional salmon recovery plans ~~((for evolutionarily significant units, and submit those plans to the appropriate tribal governments and federal agencies))~~ as an integral part of a statewide strategy developed consistent with the guiding principles and procedures under RCW 77.85.150. The governor's salmon recovery office ~~((may also:~~

~~(a))~~ shall gather regional recovery plans from regional recovery organizations and submit the plans to the federal fish services for adoption as federal recovery plans. The governor's salmon recovery office may also:

(a) Assist state agencies, local governments, landowners, and other interested parties in obtaining federal assurances that plans, programs, or activities are consistent with fish recovery under the federal endangered species act;

(b) Act as liaison to local governments, the state congressional delegation, the United States congress, federally recognized tribes, and the federal executive branch agencies for issues related to the state's ~~((endangered species act))~~ salmon recovery plans; and

~~((b))~~ (c) Provide ~~((the biennial state of the salmon report to the legislature))~~ periodic reports pursuant to RCW 77.85.020.

(2) This section expires June 30, ~~((2006))~~ 2007.

Sec. 5. RCW 77.85.040 and 2000 c 107 s 94 are each amended to read as follows:

(1) The governor shall request the national academy of sciences, the American fisheries society, or a comparable institution to screen candidates to serve as members on the independent science panel. The institution that conducts the screening of the candidates shall submit a list of the nine most qualified candidates to the governor, the speaker of the house of representatives, and the majority leader of the senate. The candidates shall reflect expertise in

habitat requirements of salmon, protection and restoration of salmon populations, artificial propagation of salmon, hydrology, or geomorphology.

(2) The speaker of the house of representatives and the majority leader in the senate may each remove one name from the nomination list. The governor shall consult with tribal representatives and the governor shall appoint five scientists from the remaining names on the nomination list.

(3) The members of the independent science panel shall serve four-year terms. Vacant positions on the panel shall be filled in the same manner as the original appointments. Members shall serve no more than two full terms. The independent science panel members shall elect the chair of the panel among themselves every two years. Based upon available funding, the governor's salmon recovery office may contract for services with members of the independent science panel for compensation under chapter 39.29 RCW.

(4) The independent science panel shall be governed by generally accepted guidelines and practices governing the activities of independent science boards such as the national academy of sciences. The purpose of the independent science panel is to help ensure that sound science is used in salmon recovery efforts. The governor's salmon recovery office (~~shall~~) may request review of regional salmon recovery plans by the science review panel. The science panel does not have the authority to review individual projects or habitat project lists developed under RCW 77.85.050(,) or 77.85.060(~~, and 75.46.080~~) or to make policy decisions. The panel shall periodically submit its findings and recommendations under this subsection to the legislature and the governor.

~~((5) The independent science panel, in conjunction with the technical review team, shall recommend standardized monitoring indicators and data quality guidelines for use by entities involved in habitat projects and salmon recovery activities across the state.~~

~~(6) The independent science panel, in conjunction with the technical review team, shall also recommend criteria for the systematic and periodic evaluation of monitoring data in order for the state to be able to answer critical questions about the effectiveness of the state's salmon recovery efforts.~~

~~(7) The recommendations on monitoring as required in this section shall be provided in a report to the governor and to the legislature by the independent science panel, in conjunction with the salmon recovery office, no later than December 31, 2000. The report shall also include recommendations on the level of effort needed to sustain monitoring of salmon projects and other recovery efforts, and any other recommendations on monitoring deemed important by the independent science panel and the technical review team. The report may be included in the biennial state of the salmon report required under RCW 77.85.020.))~~

Sec. 6. RCW 77.85.050 and 1999 sp.s. c 13 s 11 are each amended to read as follows:

(1)(a) Counties, cities, and tribal governments must jointly designate, by resolution or by letters of support, the area for which a habitat project list is to be developed and the lead entity that is to be responsible for submitting the habitat project list. No project included on a habitat project list shall be considered mandatory in nature and no private landowner may be forced or coerced into participation in any respect. The lead entity may be a county, city, conservation

district, special district, tribal government, regional recovery organization, or other entity.

(b) The lead entity shall establish a committee that consists of representative interests of counties, cities, conservation districts, tribes, environmental groups, business interests, landowners, citizens, volunteer groups, regional fish enhancement groups, and other habitat interests. The purpose of the committee is to provide a citizen-based evaluation of the projects proposed to promote salmon habitat. ~~((The technical review team may provide the lead entity with organizational models that may be used in establishing the committees.))~~

(c) The committee shall compile a list of habitat projects, establish priorities for individual projects, define the sequence for project implementation, and submit these activities as the habitat project list. The committee shall also identify potential federal, state, local, and private funding sources.

(2) The area covered by the habitat project list must be based, at a minimum, on a WRIA, combination of WRIs, or any other area as agreed to by the counties, cities, and tribes in resolutions or in letters of support meeting the requirements of this subsection. Preference will be given to projects in an area that contain a salmon species that is listed or proposed for listing under the federal endangered species act.

(3) The lead entity shall submit the habitat project list to the ~~((technical review team))~~ board in accordance with procedures adopted by the board.

Sec. 7. RCW 77.85.090 and 2000 c 107 s 99 are each amended to read as follows:

(1) The southwest Washington salmon recovery region, whose boundaries are provided in chapter 60, Laws of 1998, is created.

(2) Lead entities within a salmon recovery region that agree to form a regional salmon recovery organization may be recognized by the salmon recovery office as a regional recovery organization. The regional recovery organization may plan, coordinate, and monitor the implementation of a regional recovery plan in accordance with RCW 77.85.150. Regional recovery organizations existing as of the effective date of this act that have developed draft recovery plans approved by the governor's salmon recovery office by July 1, 2005, may continue to plan, coordinate, and monitor the implementation of regional recovery plans.

Sec. 8. RCW 77.85.130 and 2000 c 107 s 102 and 2000 c 15 s 1 are each reenacted and amended to read as follows:

(1) The salmon recovery funding board shall develop procedures and criteria for allocation of funds for salmon habitat projects and salmon recovery activities on a statewide basis to address the highest priorities for salmon habitat protection and restoration. To the extent practicable the board shall adopt an annual allocation of funding. The allocation should address both protection and restoration of habitat, and should recognize the varying needs in each area of the state on an equitable basis. The board has the discretion to partially fund, or to fund in phases, salmon habitat projects. The board may annually establish a maximum amount of funding available for any individual project, subject to available funding. No projects required solely as a mitigation or a condition of permitting are eligible for funding.

(2)(a) In evaluating, ranking, and awarding funds for projects and activities the board shall give preference to projects that:

(i) Are based upon the limiting factors analysis identified under RCW 77.85.060;

(ii) Provide a greater benefit to salmon recovery based upon the stock status information contained in the department of fish and wildlife salmonid stock inventory (SASSI), the salmon and steelhead habitat inventory and assessment project (SSHIAP), and any comparable science-based assessment when available;

(iii) Will benefit listed species and other fish species; ~~((and))~~

(iv) Will preserve high quality salmonid habitat; and

(v) Are included in a regional or watershed-based salmon recovery plan that accords the project, action, or area a high priority for funding.

(b) In evaluating, ranking, and awarding funds for projects and activities the board shall also give consideration to projects that:

(i) Are the most cost-effective;

(ii) Have the greatest matched or in-kind funding; ~~((and))~~

(iii) Will be implemented by a sponsor with a successful record of project implementation; and

(iv) Are part of a regionwide list developed by lead entities.

(3) The board may reject, but not add, projects from a habitat project list submitted by a lead entity for funding.

~~(4) (For fiscal year 2000, the board may authorize the interagency review team to evaluate, rank, and make funding decisions for categories of projects or activities or from funding sources provided for categories of projects or activities. In delegating such authority the board shall consider the review team's staff resources, procedures, and technical capacity to meet the purposes and objectives of this chapter. The board shall maintain general oversight of the team's exercise of such authority.~~

~~(5) The board shall seek the guidance of the technical review team to ensure that scientific principles and information are incorporated into the allocation standards and into proposed projects and activities. If the technical review team determines that a habitat project list complies with the critical pathways methodology under RCW 77.85.060, it shall provide substantial weight to the list's project priorities when making determinations among applications for funding of projects within the area covered by the list.~~

~~(6))~~ The board shall establish criteria for determining when block grants may be made to a lead entity ~~((or other recognized regional recovery entity consistent with one or more habitat project lists developed for that region. Where a lead entity has been established pursuant to RCW 77.85.050;)).~~ The board may provide block grants to the lead entity to ~~((assist in carrying out lead entity functions under this chapter;))~~ implement habitat project lists developed under RCW 77.85.050, subject to available funding. The board shall determine an equitable minimum amount of project funds for each recovery region, and shall distribute the remainder of funds on a competitive basis. The board may also provide block grants to the lead entity or regional recovery organization to assist in carrying out functions described under this chapter. Block grants must be expended consistent with the priorities established for the board in subsection (2) of this section. Lead entities or regional recovery organizations receiving

block grants under this subsection shall provide an annual report to the board summarizing how funds were expended for activities consistent with this chapter, including the types of projects funded, project outcomes, monitoring results, and administrative costs.

~~((7))~~ (5) The board may waive or modify portions of the allocation procedures and standards adopted under this section in the award of grants or loans to conform to legislative appropriations directing an alternative award procedure or when the funds to be awarded are from federal or other sources requiring other allocation procedures or standards as a condition of the board's receipt of the funds. The board shall develop an integrated process to manage the allocation of funding from federal and state sources to minimize delays in the award of funding while recognizing the differences in state and legislative appropriation timing.

~~((8))~~ (6) The board may award a grant or loan for a salmon recovery project on private or public land when the landowner has a legal obligation under local, state, or federal law to perform the project, when expedited action provides a clear benefit to salmon recovery, and there will be harm to salmon recovery if the project is delayed. For purposes of this subsection, a legal obligation does not include a project required solely as a mitigation or a condition of permitting.

~~((9))~~ (7) The board may condition a grant or loan to include the requirement that property may only be transferred to a federal agency if the agency that will acquire the property agrees to comply with all terms of the grant or loan to which the project sponsor was obligated. Property acquired or improved by a project sponsor may be conveyed to a federal agency, but only if the agency agrees to comply with all terms of the grant or loan to which the project sponsor was obligated.

Sec. 9. RCW 77.85.150 and 1999 sp.s. c 13 s 9 are each amended to read as follows:

(1) ~~((By September 1, 1999,))~~ The governor, with the assistance of the salmon recovery office, shall ~~((submit a statewide salmon recovery strategy to the appropriate federal agencies administering the federal endangered species act))~~ maintain and revise a statewide salmon recovery strategy.

(2) The governor and the salmon recovery office shall be guided by the following considerations in ~~((developing))~~ maintaining and revising the strategy:

(a) The strategy should identify statewide initiatives and responsibilities with regional recovery plans and local watershed initiatives as the principal ~~((mechanism))~~ means for implementing the strategy;

(b) The strategy should emphasize collaborative, incentive-based approaches;

(c) The strategy should address all factors limiting the recovery of Washington's listed salmon stocks, including habitat and water quality degradation, harvest and hatchery management, inadequate streamflows, and other barriers to fish passage. Where other limiting factors are beyond the state's jurisdictional authorities to respond to, such as some natural predators and high seas fishing, the strategy shall include the state's requests for federal action to effectively address these factors;

(d) The strategy should identify immediate actions necessary to prevent extinction of a listed salmon stock, establish performance measures to determine

if restoration efforts are working, recommend effective monitoring and data management, and recommend to the legislature clear and certain measures to be implemented if performance goals are not met;

(e) The strategy shall rely on the best scientific information available and provide for incorporation of new information as it is obtained;

(f) The strategy should seek a fair allocation of the burdens and costs upon economic and social sectors of the state whose activities may contribute to limiting the recovery of salmon; and

(g) The strategy should seek clear measures and procedures from the appropriate federal agencies for removing Washington's salmon stocks from listing under the federal act.

(3) Beginning on September 1, 2000, the strategy shall be updated through an active public involvement process, including early and meaningful opportunity for public comment. In obtaining public comment, the salmon recovery office shall hold public meetings throughout the state and shall encourage regional and local recovery planning efforts to similarly ensure an active public involvement process.

(4) This section shall apply prospectively only and not retroactively. Nothing in this section shall be construed to invalidate actions taken in recovery planning at the local, regional, or state level prior to July 1, 1999.

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

(1) RCW 77.85.070 (Technical advisory groups) and 2000 c 107 s 97 & 1998 c 246 s 10; and

(2) RCW 77.85.210 (Monitoring activities—Monitoring oversight committee—Legislative steering committee—Report to the legislature—Monitoring strategy and action plan) and 2001 c 298 s 3.

Passed by the Senate April 23, 2005.

Passed by the House April 22, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 310

[Engrossed Substitute Senate Bill 5620]

OPEN SPACE PRIORITIES

AN ACT Relating to priority consideration of buffers in open space plans, public benefit rating systems, and assessed valuation schedules; and amending RCW 84.34.055.

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

Sec. 1. RCW 84.34.055 and 1994 c 264 s 76 are each amended to read as follows:

(1)(a) The county legislative authority may direct the county planning commission to set open space priorities and adopt, after a public hearing, an open space plan and public benefit rating system for the county. The plan shall consist of criteria for determining eligibility of lands, the process for establishing a public benefit rating system, and an assessed valuation schedule. The assessed valuation schedule shall be developed by the county assessor and shall be a percentage of market value based upon the public benefit rating system. The

open space plan, the public benefit rating system, and the assessed valuations schedule shall not be effective until approved by the county legislative authority after at least one public hearing: PROVIDED, That any county which has complied with the procedural requisites of chapter 393, Laws of 1985, prior to July 28, 1985, need not repeat those procedures in order to adopt an open space plan pursuant to chapter 393, Laws of 1985.

(b) County legislative authorities, in open space plans, public benefit rating systems, and assessed valuation schedules, shall give priority consideration to lands used for buffers that are planted with or primarily contain native vegetation.

(c) "Priority consideration" as used in this section may include, but is not limited to, establishing classification eligibility and maintenance criteria for buffers meeting the requirements of (b) of this subsection.

(d) County legislative authorities shall meet the requirements of (b) of this subsection no later than July 1, 2006, unless buffers already receive priority consideration in the existing open space plans, public benefit rating systems, and assessed valuation schedules.

(2) In adopting an open space plan, recognized sources shall be used unless the county does its own survey of important open space priorities or features, or both. Recognized sources include but are not limited to the natural heritage data base; the state office of historic preservation; the interagency committee for outdoor recreation inventory of dry accretion beach and shoreline features; state, national, county, or city registers of historic places; the shoreline master program; or studies by the parks and recreation commission and by the departments of fish and wildlife and natural resources. Features and sites may be verified by an outside expert in the field and approved by the appropriate state or local agency to be sent to the county legislative authority for final approval as open space.

(3) When the county open space plan is adopted, owners of open space lands then classified under this chapter shall be notified in the same manner as is provided in RCW 84.40.045 of their new assessed value. These lands may be removed from classification, upon request of owner, without penalty within thirty days of notification of value.

(4) The open space plan and public benefit rating system under this section may be adopted for taxes payable in 1986 and thereafter.

Passed by the Senate April 21, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.

CHAPTER 311

[Substitute House Bill 1181]

TRANSPORTATION—OVERWEIGHT SEALED CONTAINERS

AN ACT Relating to transferring overweight sealed ocean-going containers between ocean marine terminals and railheads; and adding a new section to chapter 46.44 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.44 RCW to read as follows:

(1) 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.

(2) 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. 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 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 the heavy haul industrial corridor. 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 3.88 in the vicinity of Taylor Way.

(6) The department of transportation may adopt reasonable rules to implement this section.

Passed by the House April 18, 2005.

Passed by the Senate April 7, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 312

[Substitute House Bill 1179]

HIGH-OCCUPANCY TOLL LANES

AN ACT Relating to high-occupancy toll lanes; amending RCW 43.84.092; reenacting and amending RCW 42.17.310, 42.17.310, and 43.84.092; adding new sections to chapter 47.56 RCW; adding a new section to chapter 47.66 RCW; creating new sections; prescribing penalties; providing effective dates; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. LEGISLATIVE INTENT. The legislature recognizes that the Puget Sound region is faced with growing traffic congestion and has limited ability to expand freeway capacity due to financial, environmental, and physical constraints. Freeway high-occupancy vehicle lanes have been an effective means of providing transit, vanpools, and carpools with a fast trip on congested freeway corridors, but in many cases, these lanes are themselves getting crowded during the peak commute times, while some are being underused at off-peak times.

It is the intent of the legislature to maximize the effectiveness and efficiency of the freeway system. To evaluate methods to accomplish this, it is beneficial to evaluate alternative approaches to managing the use of freeway high-occupancy vehicle lanes, including pilot projects to determine and demonstrate the effectiveness and benefits of implementing high-occupancy toll lanes. The legislature acknowledges that state route 167 provides an ideal test of the high-occupancy toll lane concept because it is a congested corridor, it has underused capacity in the high-occupancy vehicle lane, and it has adequate right of way for improvements needed to test the concept. Therefore, it is the intent of this act to direct that the department of transportation, as a pilot project, develop and operate a high-occupancy toll lane on state route 167 in King county and to conduct an evaluation of that project to determine impacts on freeway efficiency, effectiveness for transit, feasibility of financing improvements through tolls, and the impacts on freeway users.

NEW SECTION. Sec. 2. A new section is added to chapter 47.56 RCW to read as follows:

DEFINITION OF HIGH-OCCUPANCY TOLL LANES. For the purposes of RCW 46.61.165 and sections 3 and 4 of this act, "high-occupancy toll lanes" means one or more lanes of a highway that charges tolls as a means of regulating access to or the use of the facility, to maintain travel speed and reliability. Supporting facilities include, but are not limited to, approaches, enforcement areas, improvements, buildings, and equipment.

NEW SECTION. Sec. 3. A new section is added to chapter 47.56 RCW to read as follows:

AUTHORITY TO DESIGNATE STATE ROUTE 167 HIGH-OCCUPANCY TOLL LANE PILOT PROJECT. (1) The department may provide for the establishment, construction, and operation of a pilot project of high-occupancy toll lanes on state route 167 high-occupancy vehicle lanes within King county. The department may issue, buy, and redeem bonds, and deposit and expend them; secure and remit financial and other assistance in the construction of high-occupancy toll lanes, carry insurance, and handle any other matters pertaining to the high-occupancy toll lane pilot project.

(2) Tolls for high-occupancy toll lanes will be established as follows:

(a) The schedule of toll charges for high-occupancy toll lanes must be established by the transportation commission and collected in a manner determined by the commission.

(b) Toll charges shall not be assessed on transit buses and vanpool vehicles owned or operated by any public agency.

(c) The department shall establish performance standards for the state route 167 high-occupancy toll lane pilot project. The department must automatically adjust the toll charge, using dynamic tolling, to ensure that toll-paying single-occupant vehicle users are only permitted to enter the lane to the extent that average vehicle speeds in the lane remain above forty-five miles per hour at least ninety percent of the time during peak hours. The toll charge may vary in amount by time of day, level of traffic congestion within the highway facility, vehicle occupancy, or other criteria, as the commission may deem appropriate. The commission may also vary toll charges for single-occupant inherently low-emission vehicles such as those powered by electric batteries, natural gas, propane, or other clean burning fuels.

(d) The commission shall periodically review the toll charges to determine if the toll charges are effectively maintaining travel time, speed, and reliability on the highway facilities.

(3) The department shall monitor the state route 167 high-occupancy toll lane pilot project and shall annually report to the transportation commission and the legislature on operations and findings. At a minimum, the department shall provide facility use data and review the impacts on:

(a) Freeway efficiency and safety;

(b) Effectiveness for transit;

(c) Person and vehicle movements by mode;

(d) Ability to finance improvements and transportation services through tolls; and

(e) The impacts on all highway users. The department shall analyze aggregate use data and conduct, as needed, separate surveys to assess usage of the facility in relation to geographic, socioeconomic, and demographic information within the corridor in order to ascertain actual and perceived questions of equitable use of the facility.

(4) The department shall modify the pilot project to address identified safety issues and mitigate negative impacts to high-occupancy vehicle lane users.

(5) Authorization to impose high-occupancy vehicle tolls for the state route 167 high-occupancy toll pilot project expires if either of the following two conditions apply:

(a) If no contracts have been let by the department to begin construction of the toll facilities associated with this pilot project within four years of the effective date of this section; or

(b) Four years after toll collection begins under this section.

(6) The department of transportation shall adopt rules that allow automatic vehicle identification transponders used for electronic toll collection to be compatible with other electronic payment devices or transponders from the Washington state ferry system, other public transportation systems, or other toll collection systems to the extent that technology permits.

(7) The conversion of a single existing high-occupancy vehicle lane to a high-occupancy toll lane as proposed for SR-167 must be taken as the exception for this pilot project.

(8) A violation of the lane restrictions applicable to the high-occupancy toll lanes established under this section is a traffic infraction.

(9) Procurement activity associated with this pilot project shall be open and competitive in accordance with chapter 39.29 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 47.66 RCW to read as follows:

The high-occupancy toll lanes operations account is created in the state treasury. The department shall deposit all revenues received by the department as toll charges collected from high-occupancy toll lane users. Moneys in this account may be spent only if appropriated by the legislature. Moneys in this account may be used for, but be not limited to, debt service, planning, administration, construction, maintenance, operation, repair, rebuilding, enforcement, and expansion of high-occupancy toll lanes and to increase transit, vanpool and carpool, and trip reduction services in the corridor. A reasonable proportion of the moneys in this account must be dedicated to increase transit, vanpool, carpool, and trip reduction services in the corridor. A reasonable proportion of the moneys in this account must be dedicated to increase transit, vanpool, carpool, and trip reduction services in the corridor.

Sec. 5. RCW 42.17.310 and 2003 1st sp.s. c 26 s 926, 2003 c 277 s 3, and 2003 c 124 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) 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.

(e) 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 public disclosure 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 public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal

relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) 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.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) 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 (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 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.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses or residential telephone numbers of employees or volunteers of a public agency which are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.040 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) 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.

(aa) 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.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or

of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) 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.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) 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.

(kk) Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043.

(ll) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.

(mm) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons.

(nn) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety.

(oo) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310. If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this section as exempt from disclosure. If the requester initiates an action to compel disclosure

under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality.

(pp) 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.

(qq) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units.

(rr) 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).

(ss) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law.

(tt) 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 liquor license, gambling license, or lottery retail license.

(uu) Records maintained by the employment security department and subject to chapter 50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes.

(vv) Individually identifiable information received by the work force training and education coordinating board for research or evaluation purposes.

(ww) 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:

(i) 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

(ii) 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.

(xx) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data. However, this information may be released to government agencies concerned with the management of fish and wildlife resources.

(yy) Sensitive wildlife data obtained by the department of fish and wildlife. However, sensitive wildlife data may be released to government agencies concerned with the management of fish and wildlife resources. Sensitive wildlife data includes:

(i) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(ii) Radio frequencies used in, or locational data generated by, telemetry studies; or

(iii) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(A) The species has a known commercial or black market value;

(B) There is a history of malicious take of that species; or

(C) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

(zz) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag. However, the department of fish and wildlife may disclose personally identifying information to:

(i) Government agencies concerned with the management of fish and wildlife resources;

(ii) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(iii) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040.

(aaa)(i) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have not been commingled with other recorded documents. These records will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding that veteran's general power of attorney, or to anyone else designated in writing by that veteran to receive the records.

(ii) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have been commingled with other records, if the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor. If such a request has been recorded, these records may be released only to the veteran filing the papers, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iii) Discharge papers of a veteran filed at the office of the county auditor after June 30, 2002, are not public records, but will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power

of attorney, or anyone else designated in writing by the veteran to receive the records.

(iv) For the purposes of this subsection (1)(aaa), next of kin of deceased veterans have the same rights to full access to the record. Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister.

(bbb) 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, 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 or any individual's safety.

(ccc) Information compiled by school districts or schools in the development of their comprehensive safe school plans pursuant to RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school.

(ddd) 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.

(eee) 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.

(fff) Proprietary data, trade secrets, or other information that relates to: (i) A vendor's unique methods of conducting business; (ii) data unique to the product or services of the vendor; or (iii) 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.

(ggg) Proprietary information deemed confidential for the purposes of section 923, chapter 26, Laws of 2003 1st sp. sess.

(hhh) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally identifying information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No

exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Sec. 6. RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) 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.

(e) 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 public disclosure 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 public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) 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.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) 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 (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 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.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses or residential telephone numbers of employees or volunteers of a public agency which are held by any public agency in

personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.040 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) 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.

(aa) 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.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) 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.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) 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.

(kk) Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043.

(ll) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.

(mm) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons.

(nn) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety.

(oo) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310. If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this section as exempt from disclosure. If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality.

(pp) 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.

(qq) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units.

(rr) 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).

(ss) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law.

(tt) 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 liquor license, gambling license, or lottery retail license.

(uu) Records maintained by the employment security department and subject to chapter 50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes.

(vv) Individually identifiable information received by the work force training and education coordinating board for research or evaluation purposes.

(ww) 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:

(i) 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

(ii) 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.

(xx) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data. However, this information may be released to government agencies concerned with the management of fish and wildlife resources.

(yy) Sensitive wildlife data obtained by the department of fish and wildlife. However, sensitive wildlife data may be released to government agencies

concerned with the management of fish and wildlife resources. Sensitive wildlife data includes:

(i) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(ii) Radio frequencies used in, or locational data generated by, telemetry studies; or

(iii) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(A) The species has a known commercial or black market value;

(B) There is a history of malicious take of that species; or

(C) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

(zz) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag. However, the department of fish and wildlife may disclose personally identifying information to:

(i) Government agencies concerned with the management of fish and wildlife resources;

(ii) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(iii) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040.

(aaa)(i) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have not been commingled with other recorded documents. These records will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding that veteran's general power of attorney, or to anyone else designated in writing by that veteran to receive the records.

(ii) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have been commingled with other records, if the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor. If such a request has been recorded, these records may be released only to the veteran filing the papers, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iii) Discharge papers of a veteran filed at the office of the county auditor after June 30, 2002, are not public records, but will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iv) For the purposes of this subsection (1)(aaa), next of kin of deceased veterans have the same rights to full access to the record. Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister.

(bbb) 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, 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 or any individual's safety.

(ccc) Information compiled by school districts or schools in the development of their comprehensive safe school plans pursuant to RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school.

(ddd) 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.

(eee) 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.

(fff) Proprietary data, trade secrets, or other information that relates to: (i) A vendor's unique methods of conducting business; (ii) data unique to the product or services of the vendor; or (iii) 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.

(ggg) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally identifying information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in

which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Sec. 7. RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, 2003 c 150 s 2, and 2003 c 48 s 2 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 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 common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the

emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high-occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the 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 Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure 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 supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of

licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 8. RCW 43.84.092 and 2004 c 242 s 60 are each 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 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 common school construction fund, the county criminal justice

assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high-occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the 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 Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure 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 supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the

scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(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. 9. Section captions used in this act are not any part of the law.

NEW SECTION. Sec. 10. (1) Section 5 of this act expires June 30, 2005.

(2) Section 7 of this act expires July 1, 2006.

NEW SECTION. Sec. 11. (1) Section 6 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2005.

(2) Section 8 of this act takes effect July 1, 2006.

NEW SECTION. Sec. 12. Section 5 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 18, 2005.

Passed by the Senate April 6, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 313

[Engrossed Substitute Senate Bill 6091]

TRANSPORTATION FUNDING

AN ACT Relating to transportation funding and appropriations; amending RCW 81.84.020; amending 2004 c 229 ss 101, 207, 208, 209, 210, 211, 212, 213, 215, 218, 219, 220, 222, 223, 224, 225, 401, 402, 404, and 405 (uncodified); amending 2003 c 360 ss 201 and 218 (uncodified);

creating new sections; making appropriations and authorizing expenditures for capital improvements; and declaring an emergency.

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

2005-07 BIENNIUM

NEW SECTION. **Sec. 1.** (1) The transportation budget of the state is hereby adopted and, subject to the provisions set forth, the several amounts specified, or as much thereof as may be necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds named to the designated state agencies and offices for employee compensation and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, for the period ending June 30, 2007.

(2) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this act.

(a) "Fiscal year 2006" or "FY 2006" means the fiscal year ending June 30, 2006.

(b) "Fiscal year 2007" or "FY 2007" means the fiscal year ending June 30, 2007.

(c) "FTE" means full-time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose.

(f) "Reappropriation" means appropriation and, unless the context clearly provides otherwise, is subject to the relevant conditions and limitations applicable to appropriations.

(g) "LEAP" means the legislative evaluation and accountability program committee.

GENERAL GOVERNMENT AGENCIES—OPERATING

NEW SECTION. **Sec. 101. FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

Grade Crossing Protective Account—State Appropriation \$501,000

The appropriation in this section is subject to the following conditions and limitations: Per current law, funds will be transferred from the public service revolving fund's miscellaneous fees and penalties accounts to the grade crossing protection account—state as needed to implement the commission's railroad safety program.

NEW SECTION. **Sec. 102. FOR THE MARINE EMPLOYEES COMMISSION**

Puget Sound Ferry Operations Account—State
Appropriation \$390,000

The appropriation in this section is subject to the following conditions and limitations: To address its growing caseload, the marine employees commission shall develop a plan for prioritizing cases to schedule for hearings. The

commission shall report back to the transportation committees of the legislature on its case prioritization plan by December 15, 2005.

***NEW SECTION. Sec. 103. FOR THE STATE PARKS AND RECREATION COMMISSION**

Motor Vehicle Account—State Appropriation \$976,000

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

(1) The entire appropriation in this section is provided solely for road maintenance purposes.

(2) *The commission shall conduct a study of existing requirements regarding all-terrain vehicle (ATV) operators and submit recommendations to the legislature concerning whether revisions to those requirements are warranted. The study and recommendations shall, at a minimum, include (a) the feasibility of requiring a comprehensive hands-on ATV safety education and training program for ATV operators; (b) ATV operator equipment requirements; and (c) ATV operating requirements, including the adoption of minimum age requirements corresponding to different engine capacities of ATVs. The commission shall consult with the department of licensing and other stakeholders when conducting the study and developing recommendations and shall submit a final report to the transportation committees of the legislature by December 1, 2005.*

*Sec. 103 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 104. FOR THE DEPARTMENT OF AGRICULTURE

Motor Vehicle Account—State Appropriation \$329,000

The appropriation in this section is subject to the following conditions and limitations: \$329,000 of the motor vehicle account—state appropriation is provided solely for costs associated with the motor fuel quality program.

NEW SECTION. Sec. 105. FOR THE DEPARTMENT OF ARCHEOLOGY AND HISTORIC PRESERVATION

Motor Vehicle Account—State Appropriation \$200,000

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

(1) If Second Substitute Senate Bill No. 5056 is not enacted by June 30, 2005, the entire appropriation shall lapse.

(2) The entire appropriation is for additional staffing costs to be dedicated to state transportation activities. Furthermore, any staff hired to support transportation activities must have practical experience with complex construction projects.

GENERAL GOVERNMENT AGENCIES—CAPITAL

NEW SECTION. Sec. 106. FOR WASHINGTON STATE PARKS AND RECREATION—CAPITAL PROJECTS

Motor Vehicle Account—State Appropriation \$1,400,000

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

(1) \$1,300,000 of the motor vehicle account—state appropriation is a one-time appropriation and is provided solely for the SR 14 interchange portion of the Beacon Rock state park entrance road project. Any portion of the appropriation not expended by June 30, 2007, shall revert to the motor vehicle account—state.

(2) \$100,000 of the appropriation is provided solely for road work on state route 20 at Deception Pass state park.

TRANSPORTATION AGENCIES—OPERATING

NEW SECTION. Sec. 201. FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION

Highway Safety Account—State Appropriation	\$2,135,000
Highway Safety Account—Federal Appropriation	\$15,828,000
School Zone Safety Account—State Appropriation	\$3,300,000
Bicycle and Pedestrian Safety Account—State Appropriation	\$40,000
TOTAL APPROPRIATION	\$21,303,000

The appropriations in this section are subject to the following conditions and limitations: The Washington traffic safety commission shall contract with the Washington state institute for public policy to conduct a study of the impact of state programs concerning the reduction of DUI recidivism. The study must include, on a prioritized basis to the extent federal funds are made available for the study, the following components: (1) The state's existing deferred prosecution program; (2) the state's vehicle impound program; and (3) other states' programs that restrict a person's access to the vehicle, or suspend the vehicle license and registration, upon arrest or conviction.

The completed study must be submitted to the appropriate legislative committees by December 1, 2006.

NEW SECTION. Sec. 202. FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account—State Appropriation	\$821,000
Motor Vehicle Account—State Appropriation	\$1,942,000
County Arterial Preservation Account—State Appropriation	\$777,000
TOTAL APPROPRIATION	\$3,540,000

NEW SECTION. Sec. 203. FOR THE TRANSPORTATION IMPROVEMENT BOARD

Urban Arterial Trust Account—State Appropriation	\$1,624,000
Transportation Improvement Account—State Appropriation	\$1,625,000
TOTAL APPROPRIATION	\$3,249,000

NEW SECTION. Sec. 204. FOR THE BOARD OF PILOTAGE COMMISSIONERS

Pilotage Account—State Appropriation	\$417,000
--	-----------

***NEW SECTION. Sec. 205. FOR THE JOINT TRANSPORTATION COMMITTEE**

Motor Vehicle Account—State Appropriation	\$1,400,000
---	-------------

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

(1) The joint transportation committee shall conduct a review of state level governance of transportation, with a focus on the appropriate roles of the separate branches of government. The committee shall review the statutory duties, roles, and functions of the transportation commission and the department. In that review the committee shall determine which responsibilities may be transferred to the executive and which may be transferred to the legislature. By December 15, 2005, the joint transportation committee shall make its recommendations to the house of representatives and senate transportation committees. The joint transportation committee shall consult with affected agencies and other stakeholders in conducting its analysis. The committee may consult with and retain private professional and technical experts as necessary to ensure an independent review and analysis.

(2) The joint transportation committee shall conduct a study regarding the feasibility of a statewide uniform motor vehicle excise tax (MVET) depreciation schedule. In addition to committee members, the participants in the study must include at a minimum the following individuals: (a) A representative of a regional transit authority (Sound Transit); (b) a representative of a regional transportation planning organization; (c) the secretary of transportation, or his or her designee; (d) a representative of the attorney general's office; (e) a representative of the department of licensing; and (f) a representative of the financial community. The purpose of the study is to develop an MVET depreciation schedule that more accurately reflects vehicle value but does not hinder outstanding contractual obligations.

(3) Funds provided in this section are sufficient for the committee to administer a study of the most reliable and cost-effective means of providing passenger-only ferry service.

(a) The study shall be guided by a 18 member task force consisting of the chairs and ranking members of the house of representatives and senate transportation committees, a designee of the director of the office of financial management, a member of the transportation commission, a designee of the secretary of transportation, a representative of organized labor, and ten stakeholders to be appointed by the governor as follows: Six representatives of ferry user communities, two representatives of public transportation agencies, and two representatives of commercial ferry operators.

(b) The study shall examine issues including but not limited to the long-term viability of different service providers, cost to ferry passengers, the state subsidies required by each provider, and the availability of federal funding for the different service providers.

(c) By November 30, 2005, the task force shall make its recommendations to the house of representatives and senate transportation committees.

(4) \$450,000 of the motor vehicle account—state appropriation is provided solely to administer a consultant study of the long-term viability of the state's transportation financing methods and sources.

(a) At a minimum, the study must examine the following: (i) The short and long-term viability of the motor fuel tax (both state and federal) as a major source of funding for transportation projects and programs; (ii) the desirability and effectiveness of state-distributed transportation funds for the benefit of local

units of government; (iii) the potential for alternative and/or emerging sources of transportation revenues, with particular emphasis on user-based fees and charges; and (iv) trends and implications of debt financing for transportation projects. The scope of work for the study may be expanded to include analysis of other financing issues relevant to the long-term viability of the state's transportation system.

(b) The findings and recommendations must be submitted to the fiscal committees of the legislature by November 1, 2006.

*Sec. 205 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 206. FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account—State Appropriation	\$4,607,000
Multimodal Transportation Account—State	
Appropriation	\$1,150,000
TOTAL APPROPRIATION	\$5,757,000

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

(1) \$1,500,000 of the motor vehicle fund account—state appropriation is provided solely for a comprehensive tolling study. The transportation commission, with the technical assistance of the department, must conduct a study of the state's transportation system to determine the feasibility of administering tolls on specific transportation facilities or a network of facilities. This study shall serve as the statewide tolling feasibility study required in Engrossed Substitute House Bill No. 1541, and shall serve as the tolling study necessary to implement toll facilities within a regional transportation investment district or its successor entity.

(a) The study must include an analysis of the only currently-authorized toll facility, the Tacoma Narrows bridge project. The study findings must include (i) the development of more uniform and equitable policies regarding the distribution of financial obligations imposed on those paying the tolls on the Tacoma Narrows bridge, and (ii) opportunities and options for reducing the outstanding indebtedness on the bridge project, including the possibility of buy-downs and other means of spreading the cost of the project more equitably.

(b) The study element for the benefit of a regional transportation investment district or regional transportation improvement authority must also address the state highway system and other transportation facilities in King, Pierce, and Snohomish counties to determine the feasibility of value pricing on a facility or network of facilities. This study element should: (i) Determine the potential for value pricing to generate revenues for needed transportation facilities; (ii) maximize the efficient operation of facilities and the transportation network; and (iii) provide economic indicators for future system investments. This element of the study must take into account congestion levels, facility and corridor capacity, time of use, economic considerations, and other factors deemed appropriate. The study must recommend any additional laws, rules, procedures, resources, studies, reports, or support infrastructure necessary or desirable before proceeding with the review, evaluation, or implementation of any toll projects or a system-wide, value priced transportation structure.

(c) The study must specifically analyze the potential for a toll facility on SR 704, the cross-base highway located in Pierce county.

(2) \$2,270,000 of the motor vehicle account—state appropriation is provided solely for the transportation performance audit board. Within this amount, the transportation performance audit board shall conduct a study and make recommendations to the legislature regarding the modification RCW 47.01.012, state transportation goals and benchmarks. In conducting the study, the board shall consider at a minimum: Original recommendations of the Blue Ribbon Commission on Transportation; the current policy goals and benchmark categories; the goals outlined in Substitute House Bill No. 1969; the recent work related to benchmarks completed by the transportation commission and the Washington state department of transportation; the measures review completed by TPAB; and best practices.

The board shall submit study results, including any legislative recommendations, to the transportation committees of the legislature by January 1, 2006.

(3) \$1,150,000 of the multimodal account—state appropriation is provided solely for a statewide rail capacity and needs analysis. The purpose of this study is to (a) assess the rail freight and rail passenger infrastructure needs in this state; (b) review the current powers, authorities, and interests the state has in both passenger and freight rail; (c) recommend public policies for state participation and ownership in rail infrastructure and service delivery, including but not limited to planning and governance issues; and (d) develop a rail asset management plan. The commission shall report their findings and conclusions of the study to the transportation committees of the legislature by December 1, 2006.

NEW SECTION. Sec. 207. FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

Motor Vehicle Account—State Appropriation \$664,000

***NEW SECTION. Sec. 208. FOR THE WASHINGTON STATE PATROL—FIELD OPERATIONS BUREAU**

State Patrol Highway Account—State Appropriation \$202,530,000

State Patrol Highway Account—Federal Appropriation \$10,544,000

State Patrol Highway Account—Private/Local Appropriation. \$169,000

TOTAL APPROPRIATION \$213,243,000

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 shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol. The patrol shall report to the house of representatives and senate transportation committees by December 31, 2005, on the use of agency vehicles by officers engaging in the off-duty employment specified in this subsection. The report shall include an analysis that compares cost reimbursement and cost-

impacts, including increased vehicle mileage, maintenance costs, and indirect impacts, associated with the private use of patrol vehicles.

(2) In addition to the user fees, the patrol shall transfer into the state patrol nonappropriated airplane revolving account under RCW 43.79.470 no more than the amount of appropriated state patrol highway account and general fund funding necessary to cover the costs for the patrol's use of the aircraft. The state patrol highway account and general fund—state funds shall be transferred proportionately in accordance with a cost allocation that differentiates between highway traffic enforcement services and general policing purposes.

(3) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the transportation committees of the senate and house of representatives by December 31st of each year.

(4) The state patrol highway account—state appropriation for DUI reimbursements shall only be spent for pursuit vehicle video cameras, datamaster DUI testing equipment, tire deflator equipment, and taser guns. The Washington state patrol prior to the issuance of any taser guns will train the troopers on using the equipment. The agency will provide a report to the transportation committees of the senate and house of representatives by December 31st of each year on the occurrences where the taser guns were utilized along with any issues that have been identified.

(5) \$29,000 of the state patrol highway account—state appropriation is provided solely for the implementation of House Bill No. 1469. If House Bill No. 1469 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(6) \$5,580,000 of the total appropriation is provided solely for a 3.8% salary increase for commissioned officers effective July 1, 2005, in addition to any other salary increases provided for in this act.

(7) A maximum of \$9,855,000 of the total appropriation is provided for ferry security-related activities. The patrol shall explore alternatives for providing ferry security, including, but not limited to, using cadets whenever possible and contracting with local law enforcement agencies.

(8) The Washington state patrol is authorized to use certificates of participation to fund the King Air aircraft replacement over a term of not more than ten years and an amount not to exceed \$1,900,000.

*Sec. 208 was partially vetoed. See message at end of chapter.

***NEW SECTION. Sec. 209. FOR THE WASHINGTON STATE PATROL—TECHNICAL SERVICES BUREAU**

State Patrol Highway Account—State Appropriation	\$82,748,000
State Patrol Highway Account—Private/Local	
Appropriation	\$2,008,000
TOTAL APPROPRIATION	\$84,756,000

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

(1) \$247,000 of the state patrol highway account—state appropriation is provided solely for the implementation of Second Substitute House Bill No.

1188. If Second Substitute House Bill No. 1188 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(2) The Washington state patrol is instructed to work with the risk management division in the office of financial management in compiling the state patrol data for establishing the agency's risk management insurance premiums to the tort claims account. The office of financial management and the Washington state patrol shall submit a report to the transportation committees of the senate and house of representatives by December 31st of each year on the number of claims, estimated claims to be paid, method of calculation, and the adjustment in the premium.

(3) \$6,228,000 of the total appropriation is provided solely for automobile fuel in the 2005-2007 biennium.

(4) \$8,678,000 of the total appropriation is provided solely for the purchase of pursuit vehicles.

(5) \$5,254,000 of the total appropriation is provided solely for vehicle repair and maintenance costs of vehicles used for highway purposes.

(6) \$384,000 of the total appropriation is provided solely for the purchase of mission vehicles used for highway purposes in the commercial vehicle and traffic investigation sections of the patrol.

(7) *A maximum of \$412,000 of the total appropriation is provided for ferry security-related activities.*

*Sec. 209 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 210. FOR THE DEPARTMENT OF LICENSING—MANAGEMENT AND SUPPORT SERVICES

Marine Fuel Tax Refund Account—State Appropriation	\$3,000
Motorcycle Safety Education Account—State Appropriation	\$96,000
Wildlife Account—State Appropriation	\$82,000
Highway Safety Account—State Appropriation	\$11,418,000
Motor Vehicle Account—State Appropriation	\$7,043,000
DOL Services Account—State Appropriation	\$88,000
Biometric Security Account—State Appropriation	\$57,000
TOTAL APPROPRIATION	\$18,787,000

The appropriations in this section are subject to the following conditions and limitations: \$1,134,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Engrossed Substitute Senate Bill No. 6103. If Engrossed Substitute Senate Bill No. 6103 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 211. FOR THE DEPARTMENT OF LICENSING—INFORMATION SERVICES

Marine Fuel Tax Refund Account—State Appropriation	\$2,000
Motorcycle Safety Education Account—State Appropriation	\$35,000
Wildlife Account—State Appropriation	\$102,000
Highway Safety Account—State Appropriation	\$20,698,000
Motor Vehicle Account—State Appropriation	\$12,095,000
Motor Vehicle Account—Private/Local Appropriation	\$500,000
DOL Services Account—State Appropriation	\$7,825,000
Biometric Security Account—State Appropriation	\$728,000
TOTAL APPROPRIATION	\$41,985,000

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

(1) The department shall submit a report to the transportation committees of the legislature, detailing the progress made in transitioning from the HP3000 system, by December 30, 2005, and each December 1st thereafter until the project is fully completed.

(2) \$357,000 of the motor vehicle account—state appropriation is provided solely for the implementation of all special license plate bills introduced during the 2005 legislative session and approved by the special license plate review board. The amount provided in this subsection shall be reduced accordingly for any of those bills that are not enacted by June 30, 2005.

(3) \$58,000 of the state wildlife account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 5423. If Substitute Senate Bill No. 5423 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(4) \$145,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Engrossed Substitute Senate Bill No. 6103. If Engrossed Substitute Senate Bill No. 6103 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 212. FOR THE DEPARTMENT OF LICENSING—VEHICLE SERVICES

Marine Fuel Tax Refund Account—State Appropriation	\$26,000
Wildlife Account—State Appropriation	\$626,000
Motor Vehicle Account—State Appropriation	\$49,894,000
Motor Vehicle Account—Private/Local Appropriation	\$872,000
DOL Services Account—State Appropriation	\$1,146,000
Highway Safety Account—State Appropriation.	\$404,000
TOTAL APPROPRIATION	\$52,968,000

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

(1) \$247,000 of the motor vehicle account—state appropriation is provided solely for the implementation of all special license plate bills introduced during the 2005 legislative session and approved by the special license plate review board. The amount provided in this subsection shall be reduced accordingly for any of those bills that are not enacted by June 30, 2005.

(2) \$11,000 of the wildlife account—state appropriation is provided solely for the implementation of Engrossed Senate Bill No. 5423. If Engrossed Senate Bill No. 5423 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(3) \$404,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Engrossed Substitute Senate Bill No. 6103. If Engrossed Substitute Senate Bill No. 6103 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 213. FOR THE DEPARTMENT OF LICENSING—DRIVER SERVICES

Motorcycle Safety Education Account—State Appropriation.	\$3,005,000
Highway Safety Account—State Appropriation.	\$85,051,000

Highway Safety Account—Federal Appropriation	\$8,000
Biometric Security Account—State Appropriation	\$1,523,000
TOTAL APPROPRIATION	\$89,587,000

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

(1) \$970,000 of the highway safety account—state appropriation is provided solely for the commercial driver license program. The department shall informally report to the transportation committees of the legislature on the progress made in addressing federal audit findings and in implementing the federal motor carrier safety improvement act. Reports shall be made by the following dates: November 1, 2005, and each November 1st thereafter.

(2) \$412,000 of the motorcycle safety and education account—state appropriation is provided solely for the department's motorcycle safety program. The department shall informally report to the transportation committees of the legislature detailing the progress made in implementing national highway traffic safety assessment guidelines. Reports shall be made by the following dates: November 1, 2005, and each November 1st thereafter.

(3) The department of licensing, in consultation with the department of transportation and other stakeholders, shall draft legislation to bring the state into compliance with any federal legislation or rules enacted relative to identification necessary for persons crossing international borders. The department shall report to the transportation committees of the legislature by December 1, 2005, on the recommended legislation for bringing the state into compliance with federal requirements.

NEW SECTION. Sec. 214. FOR THE DEPARTMENT OF TRANSPORTATION—TOLL OPERATIONS AND MAINTENANCE—PROGRAM B

Tacoma Narrows Toll Bridge Account—State Appropriation	\$8,615,000
--	-------------

NEW SECTION. Sec. 215. FOR THE DEPARTMENT OF TRANSPORTATION—INFORMATION TECHNOLOGY—PROGRAM C

Motor Vehicle Account—State Appropriation	\$55,941,000
Motor Vehicle Account—Federal Appropriation	\$1,973,000
Puget Sound Ferry Operations Account—State Appropriation	\$8,558,000
Multimodal Transportation Account—State Appropriation	\$363,000
TOTAL APPROPRIATION	\$66,835,000

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

(1) \$850,000 of the motor vehicle account—state appropriation is provided for the continued maintenance and support of the transportation executive information system (TEIS). The TEIS shall be enhanced during the 2005 legislative interim to shift towards a monitoring and reporting system capable of tracking and reporting on major project milestones and measurements. The department shall work with the legislature to identify and define meaningful milestones and measures to be used in monitoring the scope, schedule, and cost of projects.

(2) \$350,000 of the motor vehicle account—state appropriation is provided solely for a financial and capital project system needs assessment for future automation development and enhancements. The completed assessment will identify options which shall be presented to the transportation committees of the senate and the house of representatives by December 31, 2005.

NEW SECTION. Sec. 216. FOR THE DEPARTMENT OF TRANSPORTATION—FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION—PROGRAM D—OPERATING

Motor Vehicle Account—State Appropriation \$33,499,000

NEW SECTION. Sec. 217. FOR THE DEPARTMENT OF TRANSPORTATION—AVIATION—PROGRAM F

Aeronautics Account—State Appropriation \$5,632,000

Aeronautics Account—Federal Appropriation \$2,150,000

Aircraft Search and Rescue Safety and

Education Account—State Appropriation \$262,000

Multimodal Transportation Account—State Appropriation \$100,000

Multimodal Transportation Account—Federal Appropriation \$900,000

TOTAL APPROPRIATION \$9,044,000

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

(1)(a) \$433,000 of the aeronautics account—state appropriation is provided solely for airport pavement projects. The department's aviation division shall complete a priority airport pavement project list by January 1, 2006, to be considered by the legislature in the 2006 supplemental budget. If Substitute Senate Bill No. 5414 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(b) The entire aircraft search and rescue safety and education account appropriation shall lapse if Substitute Senate Bill No. 5414 is enacted by June 30, 2005.

(c) If Substitute Senate Bill No. 5414 is enacted by July 1, 2005, then the remaining unexpended fund balance in the aircraft search and rescue, safety, and education account shall be deposited into the state aeronautics account.

(2) The entire multimodal transportation account—state and federal appropriations are provided solely for implementing Engrossed Substitute Senate Bill No. 5121. If Engrossed Substitute Senate Bill No. 5121 is not enacted by June 30, 2005, or if federal funds are not received by March 1, 2006, for the purpose of implementing Engrossed Substitute Senate Bill No. 5121, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 218. FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM DELIVERY MANAGEMENT AND SUPPORT—PROGRAM H

Motor Vehicle Account—State Appropriation \$48,961,000

Motor Vehicle Account—Federal Appropriation \$500,000

Multimodal Account—State Appropriation \$250,000

TOTAL APPROPRIATION \$49,711,000

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 to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department solely for the purposes of providing contract services to the association of Washington cities and Washington state association of counties for (a) activities of the transportation permit efficiency and accountability committee, including pilot mitigation banking activities, and (b) other permit delivery efforts.

(2) \$1,475,000 of the motor vehicle account—state appropriation is provided solely for the staffing activities of the transportation permit efficiency and accountability committee.

NEW SECTION. Sec. 219. FOR THE DEPARTMENT OF TRANSPORTATION—ECONOMIC PARTNERSHIPS—PROGRAM K

Motor Vehicle Account—State Appropriation \$1,068,000

NEW SECTION. Sec. 220. FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE—PROGRAM M

Motor Vehicle Account—State Appropriation \$296,648,000

Motor Vehicle Account—Federal Appropriation \$1,426,000

Motor Vehicle Account—Private/Local Appropriation \$4,315,000

TOTAL APPROPRIATION \$302,389,000

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

(1) If portions of the appropriations in this section are required to fund maintenance work resulting from major disasters not covered by federal emergency funds such as fire, flooding, and major slides, supplemental appropriations must be requested to restore state funding for ongoing maintenance activities.

(2) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account—state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

(3) The department shall request an unanticipated receipt for any private or local funds received for reimbursements of third party damages that are in excess of the motor vehicle account—private/local appropriation.

(4) Funding is provided for maintenance on the state system to allow for a continuation of the level of service targets included in the 2003-05 biennium. In delivering the program, the department should concentrate on the following areas:

(a) Meeting or exceeding the target for structural bridge repair on a statewide basis;

(b) Eliminating the number of activities delivered in the "f" level of service at the region level;

(c) Reducing the number of activities delivered in the "d" level of service by increasing the resources directed to those activities on a statewide and region basis; and

(d) Evaluating, analyzing, and potentially redistributing resources within and among regions to provide greater consistency in delivering the program statewide and in achieving overall level of service targets.

(5) The department shall develop and implement a plan to improve work zone safety on a statewide basis. As part of the strategy included in the plan, the department shall fund equipment purchases using a portion of the money from the annual OTEF equipment purchasing and replacement process. The department shall also identify and evaluate statewide equipment needs (such as work zone safety equipment) and prioritize any such needs on a statewide basis. Substitute purchasing at the statewide level, when appropriate, shall be utilized to meet those identified needs. The department must report to the transportation committees of the legislature by December 1, 2005, on the plan, and by December 1, 2006, on the status of implementing the plan.

NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—OPERATING

Motor Vehicle Account—State Appropriation	\$42,811,000
Motor Vehicle Account—Federal Appropriation	\$2,050,000
Motor Vehicle Account—Private/Local Appropriation	\$128,000
TOTAL APPROPRIATION	\$44,989,000

The appropriations in this section are subject to the following conditions and limitations: \$4,400,000 of the motor vehicle account—state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis.

NEW SECTION. Sec. 222. FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S

Motor Vehicle Account—State Appropriation	\$25,434,000
Motor Vehicle Account—Federal Appropriation	\$30,000
Puget Sound Ferry Operations Account—State Appropriation	\$1,321,000
Multimodal Transportation Account—State Appropriation	\$973,000
TOTAL APPROPRIATION	\$27,758,000

***NEW SECTION. Sec. 223. FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION PLANNING, DATA, AND RESEARCH—PROGRAM T**

Motor Vehicle Account—State Appropriation	\$22,390,000
Motor Vehicle Account—Federal Appropriation	\$16,756,000
Multimodal Transportation Account—State Appropriation	\$2,267,000
Multimodal Transportation Account—Federal Appropriation	\$2,829,000
Multimodal Transportation Account—Private/Local Appropriation	\$100,000
Transportation Partnership Account—State Appropriation	\$6,000,000
TOTAL APPROPRIATION	\$50,342,000

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

(1) In order to qualify for state planning funds available to regional transportation planning organizations under this section, a regional transportation planning organization containing any county with a population in excess of one million shall provide voting membership on its executive board to any incorporated principal city of a metropolitan statistical area within the region, as designated by the United States census bureau, and to any incorporated city within the region with a population in excess of eighty thousand as of July 1, 2005. Additionally, a regional transportation planning organization described under this subsection shall conduct a review of its executive board membership criteria to ensure that the criteria appropriately reflects a true and comprehensive representation of the organization's jurisdictions of significance within the region.

(2) \$900,000 of the multimodal transportation account—state appropriation and \$4,000,000 of the transportation partnership account—state appropriation are provided solely for implementing Engrossed Substitute House Bill No. 2157 or Senate Bill No. 6089. This amount is not intended to fund a tolling feasibility study provided for in that legislation, since that funding is provided through appropriation to the transportation commission. If neither Engrossed Substitute House Bill No. 2157 or Senate Bill No. 6089 is enacted by June 30, 2005, the amount provided in this subsection shall lapse. None of this appropriation may be used for election expenses for an election held before January 1, 2006.

(3) \$2,000,000 of the transportation partnership account—state appropriation is provided solely for the costs of the regional transportation investment district (RTID) election and department of transportation project oversight. These funds are provided as a loan to the RTID and shall be repaid to the state motor vehicle account within one year following the certification of the election results related to the RTID. If either Engrossed Substitute House Bill No. 2157 or Senate Bill No. 6089 are enacted by June 30, 2005, the amount provided in this subsection shall lapse. None of this appropriation may be used for election expenses for an election held before January 1, 2006.

(4) \$175,000 of the motor vehicle account—state appropriation is provided to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department to support the processing and analysis of the backlog of city and county collision reports by January 2006. The amount provided in this subsection shall lapse if federal funds become available for this purpose.

(5) \$150,000 of the multimodal transportation account—state appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 1565. If Engrossed Second Substitute House Bill No. 1565 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(6) The department of transportation shall evaluate the number of spaces available for long-haul truck parking relative to current and projected future needs. The department of transportation shall also explore options for augmenting the number of spaces available, including, but not limited to, expanding state-owned rest areas or modifying regulations governing the use of these facilities, utilizing weigh stations and park and ride lots, and encouraging the expansion of the private sector's role. Finally, the department shall explore the utility of coordinating with neighboring states on long-haul truck parking

and evaluate methodologies for alleviating any air quality issues relative to the issue. The department must report to the transportation committees of the legislature by December 1, 2005, on the options, strategies, and recommendations for long-haul truck parking.

(7) \$50,000 of the multimodal transportation account—state appropriation is provided solely for evaluating high-speed passenger transportation facilities and services, including rail or magnetic levitation transportation systems, to connect airports as a means to more efficiently utilize airport capacity, as well as connect major population and activity centers. This evaluation shall be coordinated with the airport capacity and facilities market analysis conducted pursuant to Engrossed Substitute Senate Bill No. 5121 and results of the evaluation shall be submitted by July 1, 2007. If Engrossed Substitute Senate Bill No. 5121 is not enacted by June 30, 2005, or if federal funds are not received by March 1, 2006, for the purpose of implementing Engrossed Substitute Senate Bill No. 5121, the amount provided in this subsection shall lapse.

*Sec. 223 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 224. FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM OTHER AGENCIES—PROGRAM U

Motor Vehicle Account—State Appropriation	\$45,030,000
Motor Vehicle Account—Federal Appropriation	\$400,000
TOTAL APPROPRIATION	\$45,430,000

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

(1) \$31,749,000 of the motor vehicle fund—state appropriation is provided solely for the liabilities attributable to the department of transportation. The office of financial management 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.

(2) Payments in this section represent charges from other state agencies to the department of transportation.

(a) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT DIVISION OF RISK MANAGEMENT FEES \$1,667,000

(b) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR. \$1,017,000

(c) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES. \$4,049,000

(d) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL \$3,572,000

(e) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION. \$31,749,000

(f) FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE \$1,717,000

(g) FOR ARCHIVES AND RECORDS MANAGEMENT \$545,000

(h) FOR OFFICE OF MINORITIES AND WOMEN BUSINESS ENTERPRISES. \$1,114,000

NEW SECTION. Sec. 225. FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC TRANSPORTATION—PROGRAM V

Multimodal Transportation Account—State	
Appropriation.....	\$62,269,000
Multimodal Transportation Account—Federal	
Appropriation.....	\$2,603,000
Multimodal Transportation Account—Private/Local	
Appropriation.....	\$155,000
TOTAL APPROPRIATION	\$65,027,000

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

(1) \$25,000,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.

(a) \$5,500,000 of the amount provided in this subsection is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$19,500,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2003 as reported in the "Summary of Public Transportation - 2003" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions. The first \$450,000 provided to King county shall be used as follows:

(i) \$320,000 shall be used to provide electric buses, instead of diesel buses, for service on Capital Hill in Seattle, Washington through June 30, 2007;

(ii) \$130,000 shall be used to provide training for blind individuals traveling through Rainier Valley and the greater Seattle area. The training is to include destination training and retraining due to the expected closure of the downtown bus tunnel and training on how to use the Sound Transit light rail system.

(2) Funds are provided for the rural mobility grant program as follows:

(a) \$7,000,000 of the multimodal transportation account—state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the Summary of Public Transportation - 2003 published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) \$7,000,000 of the multimodal transportation account—state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

(3) \$5,000,000 of the multimodal transportation account—state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools; and (b) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; no operating costs for public transit agencies are eligible for funding under this grant program. No additional employees may 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. Additional criteria for selecting grants must include leveraging funds other than state funds.

(4) \$3,000,000 of the multimodal transportation account—state appropriation is provided solely for the city of Seattle for the Seattle streetcar project on South Lake Union. Should the city receive any state funds for this purpose during the 2003-05 or 2005-07 biennium, the amount provided in this subsection must be reduced accordingly.

(5) \$1,200,000 of the multimodal transportation account—state appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 2124. If Engrossed Substitute House Bill No. 2124 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(6) Pursuant to the grant program established in Engrossed Substitute House Bill No. 2124, the department shall issue a call for projects and/or service proposals. Applications must be received by the department by November 1, 2005, and November 1, 2006. The department must submit a prioritized list for funding to the transportation committees of the legislature that reflects the department's recommendation, as well as, a list of all project or service proposals received.

(7) \$2,000,000 of the multimodal transportation account—state appropriation is provided solely for new tri-county connection service for Island, Skagit, and Whatcom transit agencies.

(8) \$2,000,000 of the multimodal transportation account—state appropriation is provided solely to King county as a state match to obtain federal funding for a car sharing program for persons meeting certain income or employment criteria.

NEW SECTION. Sec. 226. FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X

Puget Sound Ferry Operations Account—State

Appropriation \$350,454,000

Multimodal Transportation Account—State

Appropriation \$3,660,000

TOTAL APPROPRIATION \$354,114,000

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

(1) \$57,928,000 of the total appropriation is provided solely for auto ferry vessel operating fuel in the 2005-2007 biennium.

(2) The total appropriation provides for the compensation of ferry employees. The expenditures for compensation paid to ferry employees during the 2005-2007 biennium may not exceed \$222,356,000, plus a dollar amount, as prescribed by the office of financial management, that is equal to any insurance benefit increase granted general government employees in excess of \$584.58 a

month annualized per eligible marine employee multiplied by the number of eligible marine employees for fiscal year 2006 and \$584.58 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for fiscal year 2007, a dollar amount as prescribed by the office of financial management for costs associated with pension amortization charges, and a dollar amount prescribed by the office of financial management for salary increases during the 2005-2007 biennium. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's policies, regulations, and procedures named under objects of expenditure "A" and "B" (7.2.6.2).

(3) \$1,116,000 of the Puget Sound ferry operations account—state appropriation is provided solely for ferry security operations necessary to comply with the ferry security plan submitted by the Washington state ferry system to the United States coast guard. The department shall track security costs and expenditures. Ferry security operations costs shall not be included as part of the operational costs that are used to calculate farebox recovery.

(4) The Washington state ferries must work with the department's information technology division to implement an electronic fare system, including the integration of the regional fare coordination system (smart card). Each December and June, semi-annual updates must be provided to the transportation committees of the legislature concerning the status of implementing and completing this project, with updates concluding the first December after full project implementation.

(5) The Washington state ferries shall continue to provide service to Sidney, British Columbia.

(6) \$3,660,000 of the multimodal transportation account—state appropriation is provided solely to provide passenger-only ferry service. The ferry system shall continue passenger-only ferry service from Vashon Island to Seattle through June 30, 2007. Beginning September 1, 2005, ferry system management shall implement its agreement with the Inlandboatmen's Union of the Pacific and the International Organization of Masters, Mates and Pilots providing for part-time passenger-only work schedules. Funds may not be spent to implement the results of the passenger-only ferry study conducted by the joint transportation committee provided in section 205 of this act until approved by the legislature.

NEW SECTION. Sec. 227. FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—OPERATING

Multimodal Transportation Account—State

Appropriation. \$36,420,000

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

(1) \$29,091,000 of the multimodal transportation account—state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining the state-supported passenger rail service.

(2) \$2,750,000 of the multimodal transportation account—state appropriation is provided solely for a new round trip rail service between Seattle and Portland beginning July 1, 2006.

(3) No AMTRAK Cascade runs may be eliminated.

(4) \$200,000 of the multimodal transportation account—state appropriation is provided solely for the produce railcar program. The department is encouraged to implement the produce railcar program by maximizing private investment.

NEW SECTION. Sec. 228. FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—OPERATING

Motor Vehicle Account—State Appropriation	\$7,947,000
Motor Vehicle Account—Federal Appropriation	\$2,597,000
Multimodal Transportation Account—State Appropriation	\$211,000
TOTAL APPROPRIATION	\$10,755,000

The appropriations in this section are subject to the following conditions and limitations: \$211,000 of the motor vehicle account—state appropriation and \$211,000 of the multimodal transportation account—state appropriation are provided solely for the state's contribution to county and city studies of flood hazards in association with interstate highways. First priority shall be given to threats along the I-5 corridor.

TRANSPORTATION AGENCIES—CAPITAL

NEW SECTION. Sec. 301. FOR THE WASHINGTON STATE PATROL

State Patrol Highway Account—State Appropriation	\$2,801,000
--	-------------

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

(1) \$1,535,000 of the appropriation is provided solely for the Shelton training academy domestic water and wastewater treatment project.

(2) \$1,266,000 of the appropriation is provided solely for minor works projects.

(3) The Washington state patrol, through the director of fire protection, shall study and make recommendations to the legislature regarding the need for improvements and additions to the state fire training academy located at North Bend. The patrol may include in its recommendations information regarding capital improvements, additional staffing and salary requirements, and technology improvements. The study and recommendations shall be submitted to the legislature by December 1, 2005.

NEW SECTION. Sec. 302. FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account—State Appropriation.	\$67,933,000
Motor Vehicle Account—State Appropriation	\$355,000
County Arterial Preservation Account—State	
Appropriation.	\$30,392,000
TOTAL APPROPRIATION	\$98,680,000

The appropriations in this section are subject to the following conditions and limitations: \$355,000 of the motor vehicle account—state appropriation is provided for county ferries as set forth in RCW 47.56.725(4).

NEW SECTION. Sec. 303. FOR THE TRANSPORTATION IMPROVEMENT BOARD

Urban Arterial Trust Account—State Appropriation	\$99,425,000
Small City Preservation and Sidewalk Account—State Appropriation	\$2,000,000
Transportation Improvement Account—State Appropriation.	\$103,601,000
TOTAL APPROPRIATION	\$205,026,000

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

- (1) The transportation improvement account—state appropriation includes \$14,143,000 in proceeds from the sale of bonds authorized in RCW 47.26.500. The transportation improvement board may authorize the use of current revenues available to the agency in lieu of bond proceeds for any part of the state appropriation.
- (2) \$2,000,000 of the small city preservation and sidewalk account—state appropriation is provided to fund the provisions of chapter 83, Laws of 2005 (Substitute Senate Bill No. 5775).

NEW SECTION. Sec. 304. FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)—CAPITAL

Motor Vehicle Account—State Appropriation	\$2,492,000
---	-------------

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

- (1) \$601,000 of the motor vehicle account—state appropriation is provided solely for the statewide administration.
- (2) \$632,000 of the motor vehicle account—state appropriation is provided solely for regional minor projects.
- (3) \$224,000 of the motor vehicle account—state appropriation is provided solely for designing the replacement of the existing outdated maintenance facility in Ephrata.
- (4) \$219,000 of the motor vehicle account—state appropriation is provided solely for the designing of the northwest regional maintenance complex in Seattle.
- (5) \$833,000 of the motor vehicle account—state appropriation is provided solely for the Olympic region headquarters project.
 - (a) The department of transportation is authorized to use certificates of participation for the financing of the Olympic region project in the amount of \$34,874,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW.
 - (b) The Washington state department of transportation may utilize the design-build process in accordance with chapter 39.10 RCW for the Olympic region project. If the design-build process is used, it may be developed in partnership with the department of general administration.

***NEW SECTION. Sec. 305. FOR THE DEPARTMENT OF TRANSPORTATION—IMPROVEMENTS—PROGRAM I**

Transportation 2003 Account (Nickel Account)—State

Appropriation	\$1,175,004,000
Motor Vehicle Account—State Appropriation	\$70,359,000
Motor Vehicle Account—Federal Appropriation	\$229,036,000
Motor Vehicle Account—Private/Local Appropriation	\$33,893,000
Special Category C Account—State Appropriation	\$3,419,000
Tacoma Narrows Toll Bridge Account Appropriation	\$272,329,000
Transportation Partnership Account—State	
Appropriation	\$519,786,000
TOTAL APPROPRIATION	\$2,303,826,000

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

(1) 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 2005-6, Highway Improvement Program (I) as developed April 24, 2005. However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

(a) Within the amount provided in this subsection, \$500,000 of the transportation 2003 account (nickel account) appropriation is provided for right-of-way acquisition for the SR 502 widening from Battleground to I-5. The department must develop a right-of-way acquisition plan in conjunction with the city of Battleground that conforms with the city's comprehensive growth management plan. No funds may be expended on this project until the city of Battleground and the department of transportation have reached an agreement on the right-of-way acquisition plan.

(b) Within the amounts provided in this subsection, \$5,000,000 of the transportation partnership account—state appropriation is provided solely for project 109040S: I-90/Seattle to Mercer Island – Two way transit/HOV. Expenditure of these funds is contingent upon the development of an access plan that provides equitable and dependable access for I-90 Mercer Island exit and entry.

(c) Within the amounts provided in this subsection, \$500,000 of the transportation partnership account—state appropriation is provided solely for a west Olympia access study, to complete an access study for state route 101/west Olympia.

(d) Within the amounts provided in this subsection, \$800,000 of the transportation partnership account—state appropriation is provided solely for an SR 534 access point decision report.

(e) Within the amounts provided in this subsection, \$500,000 of the transportation partnership account—state appropriation is provided solely for an eastern Washington freight corridor study, to evaluate the development of a freight corridor from Osoyoos, Canada to Mesa, Franklin county.

(f) Within the amounts provided within this subsection, \$435,000,000 of the transportation partnership account—state appropriation is provided solely for

project 509009B: I-90 Snoqualmie Pass East - Hyak to Keechelus dam. However, if the preferred alternative selected for this project results in a lower total project cost, the remaining funds may be used for concrete rehabilitation on I-90 in the vicinity of this project.

(2) The motor vehicle account—state appropriation includes \$53,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(3) The department shall not commence construction on any part of the SR 520 bridge project until agreements have been reached with the incorporated towns or cities that represent the communities affected by the SR 520 project. The agreements must provide reasonable assurance that no further degradation will occur to the citizens' current use and enjoyment of their properties as a result of repairs and improvements made to the SR 520 bridge and its connecting roadways. Such assurances may be achieved through engineering design choices, mitigation measures, or a combination of both.

(4) The transportation partnership account—state appropriation includes \$400,000,000 in proceeds from the sale of bonds authorized by Substitute House Bill No. 2311 (or the version as enacted into law). The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(5) The Tacoma Narrows toll bridge account—state appropriation includes \$257,016,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The Tacoma Narrows toll bridge account—state appropriation includes \$15,313,000 in unexpended proceeds from the January 2003 bond sale authorized in RCW 47.10.843 for the Tacoma Narrows bridge project.

(6) The transportation 2003 account (nickel account)—state appropriation includes \$940,000,000 in proceeds from the sale of bonds authorized by chapter 147, Laws of 2003. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(7) To manage some projects more efficiently, federal funds may be transferred from program Z to program I and replaced with state funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department shall not transfer funds as authorized under this subsection without approval of the transportation commission and the director of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2006.

(8) The department shall, on a quarterly basis beginning July 1, 2005, provide to the legislature reports providing the status on each project in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2005-07 fiscal biennium. The department shall work with the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide

the information required under this subsection via the transportation executive information systems (TEIS).

(9) The department of transportation shall conduct an analysis of the causes of traffic congestion on I-5 in the vicinity of Fort Lewis and develop recommendations for alleviating the congestion. The department must report to the transportation committees of the legislature by December 1, 2005, on its analysis and recommendations regarding traffic congestion on I-5 in the vicinity of Fort Lewis.

(10) The department of transportation is authorized to proceed with the SR 519 Intermodal Access project if the city of Seattle has not agreed to a project configuration or design by July 1, 2006.

(11) The department of transportation shall remove any median barriers on South Kent Des Moines Road between I-5 and Pacific Highway that prevent vehicles from making a left turn across the roadway.

(12) \$13,000,000 of the transportation 2003 account (nickel account)—state appropriation and \$5,000,000 of the transportation partnership account—state appropriation are provided solely for construction of a new interchange on SR 522 to provide direct access to the University of Washington Bothell/Cascadia community college joint campus. This appropriation assumes an additional \$8,000,000 will be provided in the 2007-09 biennium from the transportation partnership account.

*Sec. 305 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 306. FOR THE DEPARTMENT OF TRANSPORTATION—PRESERVATION—PROGRAM P

Transportation 2003 Account (Nickel Account)—State

Appropriation	\$10,622,000
Motor Vehicle Account—State Appropriation	\$76,824,000
Motor Vehicle Account—Federal Appropriation	\$404,360,000
Motor Vehicle Account—Private/Local Appropriation	\$6,656,000
Puyallup Tribal Settlement Account—State	

Appropriation \$11,000,000

Transportation Partnership Account—State

Appropriation	\$139,533,000
TOTAL APPROPRIATION	\$648,995,000

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

(1) 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 2005-6, Highway Preservation Program (P) as developed April 24, 2005. However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

(a) Within the amounts provided in this subsection, \$139,033,000 of the transportation partnership account—state appropriation is provided solely for implementation of structures preservation (P2) projects.

(b) Within the amounts provided in this subsection, \$500,000 of the transportation partnership account—state appropriation is provided solely for implementation of other facilities (P3) projects.

(2) \$11,000,000 of the Puyallup tribal settlement account—state appropriation is provided solely for mitigation costs associated with the Murray Morgan/11st Street Bridge demolition. The department may negotiate with the city of Tacoma for the purpose of transferring ownership of the Murray Morgan/11th Street Bridge to the city. The department may use the Puyallup tribal settlement account appropriation, as well as any funds appropriated in the current biennium and planned in future biennia for the demolition and mitigation for the demolition of the bridge to rehabilitate or replace the bridge, if agreed to by the city. In no event shall the department's participation exceed \$26,500,000 and no funds may be expended unless the city of Tacoma agrees to take ownership of the bridge in its entirety and provide that the payment of these funds extinguishes any real or implied agreements regarding future expenditures on the bridge.

(3) \$11,590,000 of the motor vehicle account—state appropriation, \$95,299,000 of the motor vehicle account—federal appropriation, and \$113,591,000 of the transportation partnership account—state appropriation are provided solely for the Hood Canal bridge project.

(4) The motor vehicle account—state appropriation includes \$530,000 in proceeds from the sale of bonds authorized in RCW 47.10.761 and 47.10.762 for emergency purposes.

(5) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(6) To manage some projects more efficiently, federal funds may be transferred from program Z to program P and replaced with state funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department shall not transfer funds as authorized under this subsection without approval of the transportation commission and the director of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2006.

(7) The department shall, on a quarterly basis beginning July 1, 2005, provide to the legislature reports providing the status on each project in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2005-07 fiscal biennium. The department shall work with the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS).

**NEW SECTION. Sec. 307. FOR THE DEPARTMENT OF
TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—
CAPITAL**

Motor Vehicle Account—State Appropriation	\$17,519,000
Motor Vehicle Account—Federal Appropriation	\$15,068,000
Motor Vehicle Account—Local Appropriation	\$108,000
TOTAL APPROPRIATION	\$32,695,000

The appropriations in this section are subject to the following conditions and limitations: The motor vehicle account—state appropriation includes \$11,255,000 for state matching funds for federally selected competitive grant or congressional earmark projects other than the commercial vehicle information systems and network. These moneys shall be placed into reserve status until such time as federal funds are secured that require a state match.

NEW SECTION. Sec. 308. FOR THE DEPARTMENT OF TRANSPORTATION—WASHINGTON STATE FERRIES CONSTRUCTION—PROGRAM W

Puget Sound Capital Construction Account—State Appropriation	\$153,184,000
Puget Sound Capital Construction Account—Federal Appropriation	\$59,967,000
Puget Sound Capital Construction Account—Private/Local Appropriation	\$26,000
Multimodal Transportation Account—State Appropriation	\$13,249,000
Transportation 2003 Account (Nickel Account)—State Appropriation	\$34,987,000
TOTAL APPROPRIATION	\$261,413,000

The appropriations in this section are provided for improving the Washington state ferry system, including, but not limited to, vessel construction, major and minor vessel preservation, and terminal preservation, construction, and improvements. The appropriations in this section are subject to the following conditions and limitations:

(1) The Puget Sound capital construction account—state appropriation includes \$72,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead time materials acquisition for the Washington state ferries. The transportation commission may authorize the use of current revenues available to the motor vehicle account in lieu of bond proceeds for any part of the state appropriation.

(2) The multimodal transportation account—state appropriation includes \$10,249,000 in proceeds from the sale of bonds authorized by RCW 47.10.867. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds from any part of the state appropriation.

(3) \$15,617,000 of the Puget Sound capital construction account—state appropriation is provided solely for the Eagle Harbor Terminal Preservation project.

(4) The entire transportation 2003 account (nickel account) appropriation and \$10,249,000 of the multimodal transportation account—state appropriation are provided solely for the projects and activities as listed by fund, project and amount in LEAP Transportation Document 2005-6, Ferries Construction Program (W) as developed April 24, 2005. However, limited transfers of

allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

(5) The department shall, on a quarterly basis beginning July 1, 2005, provide to the legislature reports providing the status on each project in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2005-07 fiscal biennium. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS).

(6) \$3,000,000 of the multimodal transportation account—state appropriation is provided solely to implement approved recommendations of the stakeholder task force convened to study the most reliable and cost-effective means of providing passenger-only ferry service. The funds provided in this subsection shall be placed in reserve by the office of financial management. The funds may not be released until approved by the legislature.

NEW SECTION. Sec. 309. FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—CAPITAL

Essential Rail Assistance Account—State Appropriation	\$250,000
Multimodal Transportation Account—State	
Appropriation.	\$67,158,000
Multimodal Transportation Account—Private/Local	
Appropriation.	\$8,287,000
Multimodal Transportation Account—Federal	
Appropriation.	\$11,966,000
TOTAL APPROPRIATION	\$88,161,000

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

(1) The multimodal transportation account—state appropriation includes \$33,435,000 in proceeds from the sale of bonds and \$830,000 in unexpended bond proceeds authorized by RCW 47.10.867. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(2) If federal block grant funding for freight or passenger rail is received, the department shall consult with the transportation committees of the legislature prior to spending the funds on additional projects.

(3)(a) \$67,158,000 of the multimodal transportation account—state appropriation, \$11,966,000 of the multimodal transportation account—federal appropriation, \$8,287,000 of the multimodal transportation account—local appropriation, and \$250,000 of the essential rail assistance account are provided solely for the projects and activities as listed by fund, project and amount in LEAP Transportation Document 2005-2, Rail Capital Program (Y) as developed April 23, 2005. However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

(b) Within the amounts provided in this subsection, \$6,500,000 of the multimodal transportation account—state appropriation is provided solely for the two commuter rail projects listed in the LEAP Transportation Document 2005-6, Rail Capital Program (Y) as developed April 24, 2005.

(4) If the department issues a call for projects, applications must be received by the department by November 1, 2005, and November 1, 2006.

(5) \$50,000 of the multimodal transportation account—state appropriation is provided solely for a study of eastern Skagit county freight rail. The study shall examine the feasibility of restoring portions of freight rail line to the towns of Lyman, Hamilton, and Concrete. The study must also identify existing and potential industrial sites available for development and redevelopment, and the freight rail service needs of the identified industrial sites.

NEW SECTION. Sec. 310. FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—CAPITAL

Highway Infrastructure Account—State Appropriation	\$207,000
Highway Infrastructure Account—Federal Appropriation	\$1,602,000
Motor Vehicle Account—Federal Appropriation	\$18,221,000
Motor Vehicle Account—State Appropriation	\$6,702,000
Freight Mobility Investment Account—State Appropriation	\$12,000,000
Multimodal Transportation Account—State Appropriation	\$36,002,000
TOTAL APPROPRIATION	\$74,734,000

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

(1) To manage some projects more efficiently, federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the transportation commission. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2006.

(2) The department shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects as outlined in the project lists distributed with this act, and on any additional projects for which the department has expended funds during the 2005-07 fiscal biennium. The department shall work with the transportation committees of the legislature to agree on report formatting and elements. For projects funded by new revenue in the 2003 and 2005 transportation packages, reporting elements shall include, but not be limited to, project scope, schedule, and costs. Other projects may be reported on a programmatic basis. The department shall also provide the information required under this subsection via the transportation executive information system (TEIS).

(3) The multimodal transportation account—state appropriation includes \$6,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.867. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(4) \$3,545,000 of the multimodal transportation account—state appropriation is reappropriated and provided solely to fund the multiphase cooperative project with the state of Oregon to dredge the Columbia River. The amount provided in this subsection shall lapse unless the state of Oregon appropriates a dollar-for-dollar match to fund its share of the project.

(5) \$274,000 of the motor vehicle account—state appropriation is reappropriated and provided solely for additional traffic and pedestrian safety improvements near schools. The highways and local programs division within the department of transportation shall administer this program. 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 traffic and pedestrian safety improvement grant funds, but does not report activity on the project within one year of grant award should be reviewed by the department to determine whether the grant should be terminated. The department must promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award. The department shall expeditiously extend new grant awards to qualified projects when funds become available either because grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout.

(6) The motor vehicle account—state appropriation includes \$905,000 in unexpended proceeds from the sale of bonds authorized by RCW 47.10.843.

(7) \$867,000 of the multimodal transportation account—state appropriation is reappropriated and provided solely to support the safe routes to school program.

(8) \$18,221,000 of the motor vehicle account—federal appropriation is provided solely for the local freight capital projects in progress identified in this subsection. The specific funding listed is provided solely for the respective projects: SR 397 Ainsworth Ave. Grade Crossing, \$5,180,000; Colville Alternate Truck Route, \$2,000,000; S. 228th Street Extension and Grade Separation, \$6,500,000; Bigelow Gulch Road-Urban Boundary to Argonne Rd., \$2,000,000; Granite Falls Alternate Route, \$1,791,000; and Pacific Hwy. E./Port of Tacoma Road to Alexander, \$750,000.

(9) \$3,400,000 of the motor vehicle account—state appropriation is provided solely for the local freight capital projects in progress identified in this subsection. The specific funding listed is provided solely for the respective projects: Duwamish Intelligent Transportation Systems (ITS), \$2,520,000; Port of Kennewick/Piert Road, \$520,000; SR 397 Ainsworth Ave. Grade Crossing, \$360,000.

(10) \$6,000,000 of the multimodal account—state appropriation is provided solely for the local freight 'D' street grade separation project.

(11) The department must issue a call for pedestrian safety projects, such as safe routes to schools and transit, and bicycle and pedestrian paths. Applications must be received by the department by November 1, 2005, and November 1, 2006. The department shall identify cost-effective projects, and submit a prioritized list to the legislature for funding by December 15th of each year. Preference will be given to projects that provide a local match. The grant recipients may only be governmental entities.

(12) \$19,540,000 of the multimodal transportation account—state appropriation and \$12,000,000 of the freight investment account—state appropriation are provided solely for the projects and activities as listed by fund, project and amount in LEAP Transportation Document 2005-6, Local Programs (Z) as developed April 24, 2005. However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

(13) \$870,000 of the multimodal transportation account—state appropriation is provided solely for the Yakima Avenue, 9th Street to Front Street, pedestrian safety improvement project.

TRANSFERS AND DISTRIBUTIONS

NEW SECTION. Sec. 401. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE

Highway Bond Retirement Account Appropriation	\$354,913,000
Nondebt-Limit Reimbursable Account Appropriation	\$8,775,000
Ferry Bond Retirement Account Appropriation	\$39,010,000
Transportation Improvement Board Bond Retirement Account—State Appropriation	\$30,899,000
Motor Vehicle Account—State Appropriation	\$2,562,000
Transportation Improvement Account—State Appropriation	\$105,000
Multimodal Transportation Account—State Appropriation	\$303,000
Transportation 2003 Account (Nickel Account) Appropriation	\$19,177,000
TOTAL APPROPRIATION	\$455,744,000

NEW SECTION. Sec. 402. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

Motor Vehicle Account—State Appropriation	\$283,000
Transportation Improvement Account—State Appropriation	\$13,000
Multimodal Transportation Account—State Appropriation	\$96,000
Transportation 2003 Account (Nickel Account)—State Appropriation	\$2,400,000
Transportation Partnership Account—State Appropriation	\$2,800,000
TOTAL APPROPRIATION	\$5,592,000

NEW SECTION. Sec. 403.

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS

(1) Motor Vehicle Account—State Reappropriation: For transfer to the Tacoma Narrows toll bridge account	\$257,016,000
---	---------------

The department of transportation is authorized to sell up to \$257,016,000 in bonds authorized by RCW 47.10.843 for the Tacoma Narrows bridge project. Proceeds from the sale of the bonds shall be deposited into the motor vehicle account. The department of transportation shall inform the treasurer of the amount to be deposited.

(2) Motor Vehicle Account—State Appropriation:
For transfer to the Puget Sound capital construction
account \$72,000,000

The department of transportation is authorized to sell up to \$72,000,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.

NEW SECTION. Sec. 404. FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account Appropriation for
motor vehicle fuel tax distributions to cities
and counties \$450,757,000

NEW SECTION. Sec. 405.

FOR THE STATE TREASURER—TRANSFERS

Motor Vehicle Account—State
Appropriation: For motor vehicle fuel tax
refunds and transfers. \$820,769,000

NEW SECTION. Sec. 406. FOR THE DEPARTMENT OF TRANSPORTATION—TRANSFERS

(1) RV Account—State Appropriation:
For transfer to the Motor Vehicle Account—State \$2,000,000

(2) Motor Vehicle Account—State Appropriation:
For transfer to Puget Sound Capital Construction
Account—State \$73,000,000

(3) Highway Safety Account—State Appropriation:
For transfer to the Motor Vehicle Account—State \$10,000,000

(4) Motor Vehicle Account—State Appropriation:
For transfer to the Puget Sound Ferry Operations
Account—State \$19,087,000

(5) Motor Vehicle Account—State Appropriation:
For transfer to the Transportation Partnership
Account—State \$51,372,000

(6) Highway Safety Account—State Appropriation:
For transfer to the Multimodal Transportation
Account—State \$21,170,000

(7) Transportation Partnership Account—State Appropriation:
For transfer to the Small City Pavement and Sidewalk
Account—State \$2,000,000

(8) Transportation Partnership Account—State Appropriation:
For transfer to the Transportation Improvement
Account—State \$5,000,000

(9) Transportation Partnership Account—State Appropriation:

For transfer to the Rural Arterial Trust Account—State	\$3,000,000
(10) Technology Account—State Appropriation:	
For transfer to the Motor Vehicle Account—State	\$2,500,000
(11) Motor Vehicle Account—State Appropriation:	
For transfer to the State Patrol Highway Account—	
State	\$1,406,000
(12) Motor Vehicle Account—State Appropriation:	
For transfer to the Transportation 2003 Account	
(Nickel Account)—State	\$461,000
(13) Multimodal Transportation Account—State Appropriation:	
For transfer to the Transportation Partnership	
Account—State	\$29,400,000

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

- (a) The department of transportation shall only transfer funds in subsection (2) of this section up to the level provided, on an as-needed basis.
- (b) The amount identified in subsection (3) of this section may not include any revenues collected as passenger fares.

NEW SECTION. Sec. 407. STATUTORY APPROPRIATIONS. In addition to the amounts appropriated in sections 101 through 408 of this act for revenue for distribution, state contributions to the law enforcement officers' and fire fighters' retirement system, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under any proper bond covenant made under law.

NEW SECTION. Sec. 408. The department of transportation is authorized to undertake federal advance construction projects under the provisions of 23 U.S.C. Sec. 115 in order to maintain progress in meeting approved highway construction and preservation objectives. The legislature recognizes that the use of state funds may be required to temporarily fund expenditures of the federal appropriations for the highway construction and preservation programs for federal advance construction projects prior to conversion to federal funding.

COMPENSATION

NEW SECTION. Sec. 501. EMPLOYEE SALARY COST OF LIVING ADJUSTMENT. For those funds that support noncapital FTE employees, agency appropriations in sections 101 through 408 of this act provide funding for salary cost of living adjustments subject to the following conditions and limitations:

- (1) In addition to the purposes set forth in subsection (2) through (4) of this section, the appropriations for cost of living adjustments provide for a 3.2% increase effective July 1, 2005, for all state employees represented by a collective bargaining unit under the personnel system reform act of 2002.
- (2) The appropriations for cost of living adjustments provide for a 3.2% increase effective September 1, 2005, for all classified employees, except those represented by a collective bargaining unit under the personnel system reform

act of 2002, and except the certificated employees covered by the provisions of Initiative Measure No. 732. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the personnel resources board or the director of personnel, as applicable.

(3) The appropriations are also sufficient to fund a 3.2% salary increase effective September 1, 2005, for ferry system employees and for general government, legislative, and judicial employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials.

(4) The appropriations for cost of living adjustments provide for a 1.6% salary increase effective July 1, 2006, until June 30, 2007, for all state employees represented by a collective bargaining unit under the personnel system reform act of 2002. In addition, appropriation is provided for a 1.6% increase effective September 1, 2006, for all classified employees, except those represented by a collective bargaining unit under the personnel system reform act of 2002, and except the certificated employees covered by the provisions of Initiative Measure No. 732. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the personnel resources board or the director of personnel, as applicable. The appropriation is also sufficient to fund a 1.6% salary increase effective September 1, 2006, until June 30, 2007, for ferry system employees and for general government, legislative, and judicial employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials.

(5)(a) No salary increase may be paid under this section to any person whose salary has been Y-rated pursuant to rules adopted by the personnel resources board or the director of personnel, as applicable.

(b) The average salary increases paid under this section to agency officials whose maximum salaries are established by the committee on agency official salaries shall not exceed the average increases provided under subsection (3) of this section.

NEW SECTION. Sec. 502. COMPENSATION—INSURANCE BENEFITS. For those funds that support noncapital FTE employees, agency appropriations in sections 101 through 408 of this act provide funding for insurance benefits subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$663.00 per eligible employee for fiscal year 2006. For fiscal year 2007, the monthly employer funding rate shall not exceed \$744.00 per eligible employee covered by the health insurance collective bargaining agreement reached between the governor and health insurance coalition under the personnel system reform act of 2002 or \$618.00 per eligible ferry system employee and general government employee not covered under that agreement.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or other changes to benefits consistent with RCW 41.05.065.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of

hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

NEW SECTION. Sec. 503. CONTRIBUTIONS TO RETIREMENT SYSTEMS. For those funds that support noncapital FTE employees, agency appropriations in sections 101 through 408 of this act provide funding for agency savings in the cost of other compensation items provided at the pension rates as set forth in House Bill No. 1043 and Engrossed Substitute House Bill No. 1044.

NEW SECTION. Sec. 504. COMPENSATION ADJUSTMENT FOR SALARY SURVEY. For those funds that support noncapital FTE employees, agency appropriations in sections 101 through 408 of this act provide funding for compensation adjustments related to the salary survey.

NEW SECTION. Sec. 505. COMPENSATION ADJUSTMENT FOR CLASSIFICATION REVISIONS.

For those funds that support noncapital FTE employees, agency appropriations in sections 101 through 408 of this act provide funding for the compensation adjustment related to the classification revisions.

IMPLEMENTING PROVISIONS

NEW SECTION. Sec. 601. INFORMATION SYSTEMS PROJECTS. Agencies shall comply with the following requirements regarding information systems projects when specifically directed to do so by sections 101 through 611 of this act.

(1) Agency planning and decisions concerning information technology shall be made in the context of its information technology portfolio. "Information technology portfolio" means a strategic management approach in which the relationships between agency missions and information technology investments can be seen and understood, such that: Technology efforts are linked to agency objectives and business plans; the impact of new investments on existing infrastructure and business functions are assessed and understood before implementation; and agency activities are consistent with the development of an integrated, nonduplicative statewide infrastructure.

(2) Agencies shall use their information technology portfolios in making decisions on matters related to the following:

- (a) System refurbishment, acquisitions, and development efforts;
- (b) Setting goals and objectives for using information technology in meeting legislatively-mandated missions and business needs;
- (c) Assessment of overall information processing performance, resources, and capabilities;
- (d) Ensuring appropriate transfer of technological expertise for the operation of any new systems developed using external resources; and
- (e) Progress toward enabling electronic access to public information.

(3) Each project will be planned and designed to take optimal advantage of Internet technologies and protocols. Agencies shall ensure that the project is in

compliance with the architecture, infrastructure, principles, policies, and standards of digital government as maintained by the information services board.

(4) The agency shall produce a feasibility study for information technology projects at the direction of the information services board and in accordance with published department of information services policies and guidelines. At a minimum, such studies shall include a statement of: (a) The purpose or impetus for change; (b) the business value to the agency, including an examination and evaluation of benefits, advantages, and cost; (c) a comprehensive risk assessment based on the proposed project's impact on both citizens and state operations, its visibility, and the consequences of doing nothing; (d) the impact on agency and statewide information infrastructure; and (e) the impact of the proposed enhancements to an agency's information technology capabilities on meeting service delivery demands.

(5) The agency shall produce a comprehensive management plan for each project. The plan or plans shall address all factors critical to successful completion of each project. The plan(s) shall include, but is not limited to, the following elements: A description of the problem or opportunity that the information technology project is intended to address; a statement of project objectives and assumptions; a definition and schedule of phases, tasks, and activities to be accomplished; and the estimated cost of each phase. The planning for the phased approach shall be such that the business case justification for a project needs to demonstrate how the project recovers cost or adds measurable value or positive cost benefit to the agency's business functions within each development cycle.

(6) The agency shall produce quality assurance plans for information technology projects. Consistent with the direction of the information services board and the published policies and guidelines of the department of information services, the quality assurance plan shall address all factors critical to successful completion of the project and successful integration with the agency and state information technology infrastructure. At a minimum, quality assurance plans shall provide time and budget benchmarks against which project progress can be measured, a specification of quality assurance responsibilities, and a statement of reporting requirements. The quality assurance plans shall set out the functionality requirements for each phase of a project.

(7) A copy of each feasibility study, project management plan, and quality assurance plan shall be provided to the department of information services, the office of financial management, and legislative fiscal committees. The plans and studies shall demonstrate a sound business case that justifies the investment of taxpayer funds on any new project, an assessment of the impact of the proposed system on the existing information technology infrastructure, the disciplined use of preventative measures to mitigate risk, and the leveraging of private-sector expertise as needed. Authority to expend any funds for individual information systems projects is conditioned on the approval of the relevant feasibility study, project management plan, and quality assurance plan by the department of information services and the office of financial management.

(8) Quality assurance status reports shall be submitted to the department of information services, the office of financial management, and legislative fiscal committees at intervals specified in the project's quality assurance plan.

NEW SECTION. Sec. 602. The department of transportation may transfer federal funds for state funds within the preservation and improvement programs if funded projects are eligible to use additional federal funds and the scope of the project is not increased. The department shall not transfer funds as authorized under this subsection without approval of the director of financial management. A report of the transfers will be submitted on October 1st of each fiscal year to the senate and house of representatives transportation committees.

NEW SECTION. Sec. 603. (1) The transportation commission may authorize a transfer of spending allocation within the appropriation provided and between projects funded with transportation 2003 account (nickel account) appropriations or the transportation partnership account appropriations to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

(a) Transfers from a project may be made if the funds allocated to the project are in excess of the amount needed to complete the project;

(b) Transfers from a project may be made if the project is experiencing unavoidable expenditure delays;

(c) Transfers from a project may not be made as a result of the reduction of the scope of a project, nor shall a transfer be made to support increases in the scope of a project;

(d) Each transfer between projects may only occur if the commission finds that any resulting change will not hinder the completion of the projects approved by the legislature; and

(e) Transfers may not occur to projects not identified on the applicable project list.

(2) A report of the transfers shall be submitted on October 1st of each fiscal year to the senate and house of representatives transportation committees.

NEW SECTION. Sec. 604. If House Bill No. 1254 is enacted by July 1, 2005, then on June 30, 2007, the remaining unexpended fund balance in the bicycle and pedestrian safety account shall be deposited into the Share the Road account established in House Bill No. 1254.

***NEW SECTION. Sec. 605.** *The department of transportation shall eliminate 131 middle management positions by June 30, 2007. The middle management reduction, however, shall not impact the work force required to manage and support the delivery of the 2003 nickel package and 2005 transportation partnership package.*

*Sec. 605 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 606. Based on the anticipated outcomes of the tolling study, to be conducted under section 206 of this act, the legislature intends that tolls be charged to offset or partially offset the costs for the Alaskan Way Viaduct, State Route 520 Bridge replacement, and widening of Interstate 405 including a managed lanes concept.

***NEW SECTION. Sec. 607.** *The department of transportation, in conjunction with the office of financial management, must implement the governmental accounting standards board's (GASB) statement number 34. The financial reporting value of the state's highway system must be adjusted for any new additions to the system. The biennial reporting of the condition of the system must be related to the funding levels of maintaining the system.*

The department must maintain a current inventory of the state's highway system and estimate the actual cost to maintain and preserve the assets. In addition to the GASB statement 34, the department of transportation with the office of financial management's assistance must establish an asset replacement value for the state's highway system. A report must be submitted to the transportation committees of the senate and the house of representatives each April. During 2005, the speaker of the house of representatives and the president of the senate must select one member from each caucus to work with the office of financial management, the joint legislative audit and review committee, the department of transportation, and the department of general administration to identify areas in state government where the GASB philosophy could be implemented. The purpose of this effort is to enhance decision making that will result in strategic long-term investment decisions in transportation capital project management.

*Sec. 607 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 608. During the 2005-07 biennium, the director of general administration, through the office of state procurement, shall:

(1) In consultation with the state investment board and the state treasurer's office, explore and implement strategies designed to reduce the overall cost of fuel and mitigate the impact of market fluctuations and pressure on both short-term and long-term fuel costs. The department of general administration shall contract for these services. These fuel cost mitigation strategies shall be made available to all state agencies, institutions of higher education, and political subdivisions that purchase fuel through the office of state procurement. These strategies may include but are not limited to futures contracts, swap transactions, option contracts, costless collars, and long-term storage.

(2) Recommend a mechanism for funding these fuel cost mitigation strategies that recognizes that the benefit accrues across state and local governments. To pay for these services, the director may also explore negotiated incentives with contracted providers.

(3) Report to the fiscal committees of the legislature each December 15th regarding the types of contracts established to mitigate fuel costs, the amounts of fuel covered by the contracts, and the cost mitigation results. The reports shall also include recommendations for improving or continuing the fuel cost mitigation program.

Sec. 609. RCW 81.84.020 and 2003 c 373 s 5 are each amended to read as follows:

(1) Upon the filing of an application the commission shall give reasonable notice to the department, affected cities, counties, and public transportation benefit areas and any common carrier which might be adversely affected, of the time and place for hearing on such application. The commission shall have power after hearing, to issue the certificate as prayed for, or to refuse to issue it, or to issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by said certificate such terms and conditions as in its judgment the public convenience and necessity may require; but the commission shall not have power to grant a certificate to operate between districts and/or into any territory prohibited by RCW 47.60.120 or already served by an existing certificate holder, unless such existing certificate holder has failed or refused to furnish reasonable and adequate service or has failed to

provide the service described in its certificate or tariffs after the time period allowed to initiate service has elapsed: PROVIDED, A certificate shall be granted when it shall appear to the satisfaction of the commission that the commercial ferry was actually operating in good faith over the route for which such certificate shall be sought, on January 15, 1927: PROVIDED, FURTHER, That in case two or more commercial ferries shall upon said date have been operating vessels upon the same route, or between the same districts the commission shall determine after public hearing whether one or more certificates shall issue, and in determining to whom a certificate or certificates shall be issued, the commission shall consider all material facts and circumstances including the prior operation, schedules, and services rendered by either of the ferries, and in case more than one certificate shall issue, the commission shall fix and determine the schedules and services of the ferries to which the certificates are issued to the end that duplication of service be eliminated and public convenience be furthered.

(2) Before issuing a certificate, the commission shall determine that the applicant has the financial resources to operate the proposed service for at least twelve months, based upon the submission by the applicant of a pro forma financial statement of operations. Issuance of a certificate shall be determined upon, but not limited to, the following factors: Ridership and revenue forecasts; the cost of service for the proposed operation; an estimate of the cost of the assets to be used in providing the service; a statement of the total assets on hand of the applicant that will be expended on the proposed operation; and a statement of prior experience, if any, in such field by the applicant. The documentation required of the applicant under this section shall comply with the provisions of RCW 9A.72.085.

(3) Subsection (2) of this section does not apply to an application for a certificate that is pending as of July 25, 1993.

(4) In granting a certificate for passenger-only ferries and determining what conditions to place on the certificate, the commission shall consider and give substantial weight to the effect of its decisions on public agencies operating, or eligible to operate, passenger-only ferry service.

(5) Until ~~((March 1, 2005))~~ July 1, 2006, the commission shall not accept or consider an application for passenger-only ferry service serving any county in the Puget Sound ~~((, unless the public transportation benefit area authority or ferry district serving that county, by resolution, agrees to the application))~~ area with a population of over one million people. Applications for passenger-only ferry service serving any county in the Puget Sound area with a population of over one million pending before the commission as of the effective date of this section shall be held in abeyance and not considered before July 1, 2006.

**2003-05 BIENNIUM
GENERAL GOVERNMENT AGENCIES-OPERATING**

Sec. 700. 2004 c 229 s 101 (uncodified) is amended to read as follows:

FOR THE MARINE EMPLOYEES COMMISSION

Puget Sound Ferry Operations Account—State

Appropriation.....	((\$365,000))
	<u>\$375,000</u>

TRANSPORTATION AGENCIES—OPERATING

Sec. 701. 2003 c 360 s 201 (uncodified) is amended to read as follows:

FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION

Highway Safety Account—State Appropriation	\$2,017,000
Highway Safety Account—Federal Appropriation	\$15,744,000
School Zone Safety Account—State Appropriation.	\$3,059,000
<u>Bicycle and Pedestrian Safety Account—State</u>	
<u>Appropriation.</u>	<u>\$15,000</u>
TOTAL APPROPRIATION	(\$20,820,000)
	<u>\$20,835,000</u>

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

(1) The commission may oversee up to four pilot projects implementing the use of traffic safety cameras to detect failure to stop at railroad crossings, stoplights, and school zones.

(a) In order to ensure adequate time in the 2003-05 biennium to evaluate the effectiveness of the pilot program, any projects authorized by the commission must be authorized by December 31, 2003.

(b) If a county or city has established an authorized automated traffic safety camera program under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the equipment and services provided or rendered in support of the system, and may not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.

(c) The traffic safety commission shall use the following guidelines to administer the program:

(i) Traffic safety cameras may take pictures of the vehicle and vehicle license plate only, and only while an infraction is occurring;

(ii) The law enforcement agency of the city or county government shall plainly mark the locations where the automated traffic enforcement system is used by placing signs on street locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic enforcement system;

(iii) Cities and counties using traffic safety cameras must provide periodic notice by mail to its citizens indicating the zones in which the traffic safety cameras will be used;

(iv) Notices of infractions must be mailed to the registered owner of a vehicle within fourteen days of the infraction occurring;

(v) The owner of the vehicle is not responsible for the violation if the owner of the vehicle, within fourteen days of receiving notification of the violation, mails to the issuing law enforcement agency, a declaration under penalty of perjury, stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner, or any other extenuating circumstances;

(vi) Infractions detected through the use of traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120;

(vii) If a notice of infraction is sent to the registered owner and the registered owner is a rental car business, the infraction will be dismissed against the business if it mails to the issuing agency, within fourteen days of receiving the notice, a declaration under penalty of perjury of the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred. If the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred, the business must sign a declaration under penalty of perjury to this effect. The declaration must be mailed to the issuing agency within fourteen days of receiving the notice of traffic infraction. Timely mailing of this declaration to the issuing agency relieves a rental car business of any liability under this section for the notice of infraction. A declaration form suitable for this purpose must be included with each automated traffic infraction notice issued, along with instructions for its completion and use;

(viii) For purposes of the 2003-05 biennium pilot projects, infractions generated by the use of traffic safety cameras are exempt from the provisions of RCW 3.46.120, 3.50.100, and 35.20.220, and must be processed in the same manner as parking violations; and

(ix) By June 30, 2005, the traffic safety commission shall provide a report to the legislature regarding the use, public acceptance, outcomes, and other relevant issues regarding traffic safety cameras demonstrated by the pilot projects.

(2) \$210,000 of the highway safety account—state appropriation is provided solely for continuing the five existing DUI/traffic safety task forces that receive federal project funding that expires during the 2003-05 biennium. However, the appropriation in this subsection may only be expended for a task force when the federal funding for that task force has expired.

(3)(a) \$1,555,000 of the school zone safety account—state appropriation is provided solely as matching funds for the following school safety enhancement projects, as proposed by local agencies, schools, and tribal governments in response to the department of transportation's highways and local programs request for information for potential projects to be financed under Referendum No. 51:

Agency	Project Title
Cheney	School Crosswalk Improvement Project
Skokomish Indian Tribe	Skokomish School Safety Sidewalk Program
Brier	37th Pl SW & 233rd Pl SW Sidewalk
Sunnyside	Lincoln Ave Sidewalks
Lynnwood	Olympic View Dr - 76th Ave SW to 169th St SW
Steilacoom	Cherrydale Elementary School Safety Enhancement
Yakima	W Valley School Zone Flashers
Camas SD	SR 500 at 15th St Interchange
Seattle	Meadowbrook Playfield - NE 105th St

Vancouver Franklin ES Sidewalk Improvements

(b) If one or more of the projects under this subsection cannot be completed or no longer seeks state matching funds, the following projects may be substituted in order of priority:

Agency	Project Title
Davenport	Davenport Sixth St School Sidewalk
Edmonds	96th Ave W Pedestrian Improvements
Mountlake Terrace	223rd St SW - 44th Ave W to Cedar Way Elementary
Yakima	Englewood/Powerhouse Intersection Safety Project

(c) The highways and local programs division within the department of transportation shall provide assistance to the commission in administering this program.

(d) The legislature intends to tie funding to specific projects only for the 2003-05 biennium.

Sec. 702. 2004 c 229 s 207 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL—SUPPORT SERVICES BUREAU

State Patrol Highway Account—State Appropriation	(\$69,799,000)
	<u>\$70,951,000</u>
State Patrol Highway Account—Private/Local Appropriation.	\$1,290,000
TOTAL APPROPRIATION	(\$71,089,000)
	<u>\$72,241,000</u>

The appropriations in this section are subject to the following conditions and limitations: Under the direction of the legislative auditor, the patrol shall update the pursuit vehicle life-cycle cost model developed in the 1998 Washington state patrol performance audit (JLARC Report 99-4). The patrol shall utilize the updated model as a basis for determining maintenance and other cost impacts resulting from the increase to pursuit vehicle mileage above 110 thousand miles in the 2003-05 biennium. The patrol shall submit a report, that includes identified cost impacts, to the transportation committees of the senate and house of representatives by December 31, 2003.

Sec. 703. 2004 c 229 s 209 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—INFORMATION SERVICES

Marine Fuel Tax Refund Account—State Appropriation.	\$2,000
Motorcycle Safety Education Account—State Appropriation.	\$144,000
Wildlife Account—State Appropriation	\$55,000
Highway Safety Account—State Appropriation	(\$11,656,000)
	<u>\$11,556,000</u>
Highway Safety Account—Federal Appropriation	\$6,000

Highway Safety Account—Local Appropriation	\$60,000
Motor Vehicle Account—State Appropriation	\$6,285,000
DOL Services Account—State Appropriation	\$1,220,000
TOTAL APPROPRIATION	(\$19,428,000)
	<u>\$19,328,000</u>

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

(1) The department shall submit a report to the transportation committees of the legislature detailing the progress made in transitioning off of the Unisys system by December 1, 2003, and each December 1 thereafter.

(2) ~~(\$151,000)~~ \$51,000 of the highway safety account—state appropriation is provided solely for the implementation of Third Substitute Senate Bill No. 5412. Within the amount provided, the department of licensing shall prepare to implement a "one-to-one" biometric matching system that compares the biometric identifier submitted to the individual applicant's record. The authority to expend funds under this subsection is subject to compliance with the provisions under section 504 of this act. If Third Substitute Senate Bill No. 5412 is not enacted by June 30, 2004, the amount provided in this subsection shall lapse.

Sec. 704. 2004 c 229 s 212 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—INFORMATION TECHNOLOGY—PROGRAM C

Motor Vehicle Account—State Appropriation	(\$56,236,000)
	<u>\$53,522,000</u>
Motor Vehicle Account—Federal Appropriation	(\$5,163,000)
	<u>\$6,654,000</u>

Puget Sound Ferry Operations Account—State Appropriation	\$7,038,000
Multimodal Transportation Account—State Appropriation	\$363,000
TOTAL APPROPRIATION	(\$68,800,000)
	<u>\$67,577,000</u>

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

(1) \$850,000 of the motor vehicle account—state appropriation is provided for the continued maintenance and support of the transportation executive information system (TEIS). The TEIS shall be enhanced during the 2004 interim to shift towards a monitoring and reporting system capable of tracking and reporting on major project milestones and measurements. The department shall work with the legislature to identify and define meaningful milestones and measures to be used in monitoring the scope, schedule, and cost of projects.

(2)(a) ~~(\$2,959,000)~~ \$1,118,000 of the motor vehicle account—state appropriation and ~~(\$2,963,000)~~ \$4,454,000 of the motor vehicle account—federal appropriation are provided solely for implementation of a new revenue collection system, including the integration of the regional fare coordination system (smart card), at the Washington state ferries. By December 1st of each year, an annual update must be provided to the legislative transportation committee concerning the status of implementing and completing this project.

(b) \$200,000 of the Puget Sound ferry operation account—state appropriation is provided solely for implementation of the smart card program.

(3) The department shall contract with the department of information services to conduct a survey that identifies possible opportunities and benefits associated with siting and use of technology and wireless facilities located on state right of way authorized by RCW 47.60.140. The department shall submit a report regarding the survey to the appropriate legislative committees by December 1, 2004.

Sec. 705. 2004 c 229 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION—PROGRAM D—OPERATING

Motor Vehicle Account—State Appropriation (~~(\$30,981,000)~~
\$30,515,000

Sec. 706. 2004 c 229 s 215 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM DELIVERY MANAGEMENT AND SUPPORT—PROGRAM H

Motor Vehicle Account—State Appropriation (~~(\$49,056,000)~~
\$48,056,000

Motor Vehicle Account—Federal Appropriation \$400,000

TOTAL APPROPRIATION (~~(\$49,456,000)~~
\$48,456,000

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

(1) (~~(\$14,310,000)~~ \$13,985,000 of the motor vehicle account—state appropriation is provided solely for the staffing, activities, and overhead of the department's environmental affairs office. This funding is provided in lieu of funding provided in sections 305 and 306 of this act.

(2) \$3,100,000 of the motor vehicle account—state appropriation is provided solely for the staffing and activities of the transportation permit efficiency and accountability committee. The committee shall develop a model national environmental policy act (NEPA) tribal consultation process for federal transportation aid projects related to the preservation of cultural, historic, and environmental resources. The process shall ensure that Tribal participation in the NEPA consultation process is conducted pursuant to treaty rights, federal law, and state statutes, consistent with their expectations for protection of such resources.

(3) \$300,000 of the motor vehicle account—state appropriation is provided to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department solely for the purposes of providing contract services to the association of Washington cities and Washington state association of counties to implement section 2(3)(c), (5), and (6), chapter 8 (ESB 5279), Laws of 2003 for activities of the transportation permit efficiency and accountability committee.

Sec. 707. 2003 c 360 s 218 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—ECONOMIC PARTNERSHIPS—PROGRAM K

Motor Vehicle Account—State Appropriation	(\$1,011,000)
	<u>\$996,000</u>

Sec. 708. 2004 c 229 s 218 (uncodified) is amended to read as follows:

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

Motor Vehicle Account—State Appropriation	(\$38,924,000)
	<u>\$38,338,000</u>
Motor Vehicle Account—Private/Local Appropriation	\$125,000
TOTAL APPROPRIATION	(\$39,049,000)
	<u>\$38,463,000</u>

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

(1) A maximum of \$8,800,000 of the motor vehicle account—state appropriation may be expended for the incident response program, including the service patrols. The department and the Washington state patrol shall continue to consult and coordinate with private sector partners, such as towing companies, media, auto, insurance and trucking associations, and the legislative transportation committees to ensure that limited state resources are used most effectively. No funds shall be used to purchase tow trucks.

(2) \$4,400,000 of the motor vehicle account—state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis.

(3) At a frequency determined by the department, the interstate-5 variable message signs shall display a message advising slower traffic to keep right.

(4) The appropriation authority under this section includes spending authority to administer the motorist information sign panel program. The department shall establish the annual fees charged for these services so that all costs to administer this program are recovered; in no event, however, shall the department charge more than:

- (a) \$1,000 per business per location on freeways and expressways with average daily trips greater than 80,000;
- (b) \$750 per business per location on freeways and expressways with average daily trips less than 80,000; and
- (c) \$400 per business per location on conventional highways.

Sec. 709. 2004 c 229 s 219 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S

Motor Vehicle Account—State Appropriation	(\$24,579,000)
	<u>\$24,079,000</u>
Motor Vehicle Account—Federal Appropriation	\$636,000
Puget Sound Ferry Operations Account—State Appropriation	\$1,093,000
Multimodal Transportation Account—State Appropriation	\$973,000
TOTAL APPROPRIATION	(\$27,281,000)
	<u>\$26,781,000</u>

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

(1) \$627,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 5248. If Substitute Senate Bill No. 5248 is not enacted by June 30, 2003, the amount provided in this subsection shall lapse. The agency may transfer between programs funds provided in this subsection.

(2) The department shall transfer at no cost to the Washington state patrol the title to the Walla Walla colocation facility.

Sec. 710. 2004 c 229 s 220 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—
TRANSPORTATION PLANNING, DATA, AND RESEARCH—
PROGRAM T**

Motor Vehicle Account—State Appropriation	(\$29,494,000))
	<u>\$24,194,000</u>
Motor Vehicle Account—Federal Appropriation	\$14,814,000
Multimodal Transportation Account—State Appropriation	\$1,521,000
Multimodal Transportation Account—Federal Appropriation	\$2,000,000
TOTAL APPROPRIATION	(\$47,829,000))
	<u>\$42,529,000</u>

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

(1) \$3,800,000 of the motor vehicle account—state appropriation is provided solely for a study of regional congestion relief solutions for Puget Sound (including state route 169), Spokane, and Vancouver. The study must include proposals to alleviate congestion consistent with population and land use expectations under the growth management act, and must include measurement of all modes of transportation.

(2) \$2,000,000 of the motor vehicle account—state appropriation is provided solely for additional assistance to support regional transportation planning organizations and long-range transportation planning efforts. As a condition of receiving this support, a regional transportation planning organization containing any county with a population in excess of one million shall provide voting membership on its executive board to any incorporated principal city of a metropolitan statistical area within the region, as designated by the United States census bureau.

(3) ~~(\$3,000,000)~~ \$1,200,000 of the motor vehicle account—state appropriation is provided solely for the costs of the regional transportation investment district (RTID) election and department of transportation project oversight. These funds are provided as a loan to the RTID and shall be repaid to the state motor vehicle account within one year following the certification of the election results related to the RTID.

(4) \$650,000 of the motor vehicle account—state appropriation is provided to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department to support the processing and analysis of the backlog of city and county collision reports.

(5) The department shall contribute to the report required in section 208(1) of this act in the form of an analysis of the cost impacts incurred by the department as the result of the policy implemented in section 208(1) of this act. The analysis shall contrast overtime costs charged by the patrol prior to July 1, 2003, with contract costs for similar services after July 1, 2003.

(6) \$60,000 of the distribution under RCW 46.68.110(2) and 46.68.120(3) is provided solely to the department for the Washington strategic freight transportation analysis.

(7) \$500,000 of the multimodal transportation account—state appropriation is provided solely for contracting with the department of natural resources to develop data systems for state submerged lands that can be shared with other governmental agencies and that can support the state vision for ecoregional planning. The data to be shared shall include, but not limited to, tabular and geospatial data describing public land ownership, distributions of native plants, marine and aquatic species and their habitats, physical attributes, aquatic ecosystems, and specially designated conservation or environmentally sensitive areas.

Sec. 711. 2004 c 229 s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC TRANSPORTATION—PROGRAM V

Multimodal Transportation Account—State

Appropriation.....((~~\$47,057,000~~))
\$46,757,000

Multimodal Transportation Account—Federal Appropriation..... \$2,574,000

Multimodal Transportation Account—Private/Local

Appropriation..... \$155,000

TOTAL APPROPRIATION.....((~~\$49,786,000~~))
\$49,486,000

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

(1) \$18,000,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.

(a) \$4,000,000 of the amount provided in this subsection is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$14,000,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2001 as reported in the "Summary of Public Transportation - 2001" published by the department of

transportation. No transit agency may receive more than thirty percent of these distributions.

(2) \$1,500,000 of the multimodal transportation account—state appropriation is provided solely for grants to implement section 9 of Engrossed Substitute House Bill No. 2228.

(3) Funds are provided for the rural mobility grant program as follows:

(a) \$6,000,000 of the multimodal transportation account—state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the Summary of Public Transportation - 2001 published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) \$4,000,000 of the multimodal transportation account—state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

(4) \$4,000,000 of the multimodal transportation account—state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools; and (b) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; no operating costs for public transit agencies are eligible for funding under this grant program. No additional employees may be hired for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. Additional criteria for selecting grants will include leveraging funds other than state funds. The commute trip reduction task force shall determine the cost effectiveness of the grants, including vanpool system coordination, regarding the use of the funds.

(5) \$100,000 of the multimodal transportation account—state appropriation is provided solely for the commute trip reduction program for Benton county.

(6) \$3,000,000 of the multimodal transportation account—state appropriation is provided to the city of Seattle for the Seattle streetcar project on South Lake Union.

(7) \$500,000 of the multimodal transportation account—state appropriation is provided solely to King county as a state match to obtain federal funding for a car sharing program.

Sec. 712. 2004 c 229 s 223 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X

Puget Sound Ferry Operations Account—State

Appropriation ((~~\$312,490,000~~))
\$328,430,000

Multimodal Transportation Account—State

Appropriation \$5,120,000
TOTAL APPROPRIATION ((~~\$317,610,000~~))
\$333,550,000

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

(1) The appropriation is based on the budgeted expenditure of (~~(\$35,348,000)~~) \$51,048,000 for vessel operating fuel in the 2003-2005 biennium. If the actual cost of fuel is less than this budgeted amount, the excess amount may not be expended. If the actual cost exceeds this amount, the department shall request a supplemental appropriation.

(2) The appropriation provides for the compensation of ferry employees. The expenditures for compensation paid to ferry employees during the 2003-2005 biennium may not exceed \$208,935,700, plus a dollar amount, as prescribed by the office of financial management, that is equal to any insurance benefit increase granted general government employees in excess of \$495.30 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for fiscal year 2004 and \$567.67 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for fiscal year 2005, a dollar amount as prescribed by the office of financial management for costs associated with pension amortization charges, and a dollar amount prescribed by the office of financial management for salary increases during the 2003-2005 biennium. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's policies, regulations, and procedures named under objects of expenditure "A" and "B" (7.2.6.2).

The prescribed salary increase or decrease dollar amount that shall be allocated from the governor's compensation appropriations is in addition to the appropriation contained in this section and may be used to increase or decrease compensation costs, effective July 1, 2003, and thereafter, as established in the 2003-2005 general fund operating budget.

(3) \$4,234,000 of the multimodal transportation account—state appropriation and \$800,000 of the Puget Sound ferry operations account—state appropriation are provided solely for operating costs associated with the Vashon to Seattle passenger-only ferry. The Washington state ferries will develop a plan to increase passenger-only farebox recovery to at least forty percent by July 1, 2003, with an additional goal of eighty percent, through increased fares, lower operation costs, and other cost-saving measures as appropriate. In order to implement the plan, ferry system management is authorized to negotiate changes in work hours (requirements for split shift work), but only with respect to operating passenger-only ferry service, to be included in a collective bargaining agreement in effect during the 2003-05 biennium that differs from provisions regarding work hours in the prior collective bargaining agreement. The department must report to the transportation committees of the legislature by December 1, 2003.

(4) \$984,000 of the Puget Sound ferry operations account—state appropriation is provided solely for ferry security operations necessary to comply with the ferry security plan submitted by the Washington state ferry system to the United States coast guard. The department shall track security costs and expenditures. Ferry security operations costs shall not be included as part of the operational costs that are used to calculate farebox recovery.

(5) \$866,000 of the multimodal transportation account—state appropriation and \$200,000 of the Puget Sound ferry operations account—state appropriation

are provided solely for operating costs associated with the Bremerton to Seattle passenger-only ferry service for thirteen weeks.

(6) The department shall study the potential for private or public partners, including but not limited to King county, to provide passenger-only ferry service from Vashon to Seattle. The department shall report to the legislative transportation committees by December 31, 2003.

(7) The Washington state ferries shall continue to provide service to Sidney, British Columbia.

(8) When augmenting the existing ferry fleet, the department of transportation ferry capital program shall explore cost-effective options to include the leasing of ferries from private-sector organizations.

(9) The Washington state ferries shall work with the department of general administration, office of state procurement to improve the existing fuel procurement process and solicit, identify, and evaluate, purchasing alternatives to reduce the overall cost of fuel and mitigate the impact of market fluctuations and pressure on both short- and long-term fuel costs. Consideration shall include, but not be limited to, long-term fuel contracts, partnering with other public entities, and possibilities for fuel storage in evaluating strategies and options. The department shall report back to the transportation committees of the legislature by December 1, 2003, on the options, strategies, and recommendations for managing fuel purchases and costs.

(10) The department must provide a separate accounting of passenger-only ferry service costs and auto ferry service costs, and must provide periodic reporting to the legislature on the financial status of both passenger-only and auto ferry service in Washington state.

(11) The Washington state ferries must work with the department's information technology division to implement a new revenue collection system, including the integration of the regional fare coordination system (smart card). Each December, annual updates are to be provided to the transportation committees of the legislature concerning the status of implementing and completing this project, with updates concluding the first December after full project implementation.

(12) The Washington state ferries shall evaluate the benefits and costs of selling the depreciation rights to ferries purchased by the state in the future through sale and lease-back agreements, as permitted under RCW 47.60.010. The department is authorized to issue a request for proposal to solicit proposals from potential buyers. The department must report to the transportation committees of the legislature by December 1, 2004, on the options, strategies, and recommendations for sale/lease-back agreements on existing ferry boats as well as future ferry boat purchases.

Sec. 713. 2004 c 229 s 224 (uncodified) is amended to read as follows:

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

Multimodal Transportation Account—State

Appropriation.((~~\$34,118,000~~))
\$33,488,000

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

(1) (~~(\$29,961,000)~~) \$29,331,000 of the multimodal transportation account—state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining the state-supported passenger rail service.

(2) No Amtrak Cascade runs may be eliminated.

(3) The department is directed to explore scheduling changes that will reduce the delay in Seattle when traveling from Portland to Vancouver B.C.

(4) The department is directed to explore opportunities with British Columbia (B.C.) concerning the possibility of leasing an existing Talgo trainset to B.C. during the day for a commuter run when the Talgo is not in use during the Bellingham layover.

(5) \$50,000 of the multimodal transportation account—state appropriation is provided solely for implementing the produce rail car program as provided in RCW 47.76.420.

Sec. 714. 2004 c 229 s 225 (uncodified) is amended to read as follows:

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

Motor Vehicle Account—State Appropriation	(\$7,067,000)
	<u>\$6,957,000</u>
Motor Vehicle Account—Federal Appropriation	\$2,569,000
TOTAL APPROPRIATION	(\$9,636,000)
	<u>\$9,526,000</u>

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

(1) Up to \$75,000 of the total appropriation is provided in accordance with RCW 46.68.110(2) and 46.68.120(3) to fund the state's share of the 2004 Washington marine cargo forecast study. Public port districts, acting through their association, must provide funding to cover the remaining cost of the forecast.

(2) \$300,000 of the motor vehicle account—state appropriation is provided in accordance with RCW 46.68.110(2) and 46.68.120(3) solely to fund a study of the threats posed by flooding to the state and other infrastructure near the Interstate 5 crossing of the Skagit River. This funding is contingent on the receipt of federal matching funds.

TRANSFERS AND DISTRIBUTIONS

Sec. 801. 2004 c 229 s 401 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE

Highway Bond Retirement Account Appropriation	(\$250,000,000)
	<u>\$240,833,000</u>
Nondebt-Limit Reimbursable Account Appropriation	(\$4,131,000)
	<u>\$1,440,000</u>
Ferry Bond Retirement Account Appropriation	(\$43,340,000)

	<u>\$42,084,000</u>
Transportation Improvement Board Bond Retirement	
Account—State Appropriation	(((\$36,721,000))
	<u>\$33,209,000</u>
Motor Vehicle Account—State Appropriation	\$5,254,000
Special Category C Account—State Appropriation	\$338,000
Transportation Improvement Account—State	
Appropriation.	\$240,000
Multimodal Transportation Account—State Appropriation	\$358,000
Transportation 2003 Account (nickel account)	
Appropriation.	\$2,117,000
TOTAL APPROPRIATION	(((\$342,499,000))
	<u>\$325,873,000</u>

Sec. 802. 2004 c 229 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

Motor Vehicle Account—State Appropriation	(((\$1,293,000))
	<u>\$793,000</u>
Special Category C Account Appropriation	\$111,000
Transportation Improvement Account—State	
Appropriation.	\$21,000
Multimodal Transportation Account—State Appropriation	\$119,000
Transportation 2003 Account (nickel account)—State	
Appropriation.	(((\$700,000))
	<u>\$400,000</u>
TOTAL APPROPRIATION	(((\$2,244,000))
	<u>\$1,444,000</u>

Sec. 803. 2004 c 229 s 404 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account Appropriation for motor vehicle fuel tax distributions to cities and counties	(((\$440,228,000))
	<u>\$435,138,000</u>
Motor Vehicle Account—State Appropriation:	
For license permit and fee distributions to cities and counties	(((\$13,119,000))
	<u>\$0</u>

Sec. 804. 2004 c 229 s 405 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—TRANSFERS

(1) State Patrol Highway Account—State	
Appropriation: For transfer to the Motor	
Vehicle Account	(((\$20,000,000))
	<u>\$4,000,000</u>
(2) Motor Vehicle Account—State	

Appropriation: For motor vehicle fuel tax
 refunds and transfers((~~\$770,347,000~~))
\$752,823,000

(3) Highway Safety Account—State
 Appropriation: For transfer to the motor
 vehicle account—state \$12,000,000

(4) Motor Vehicle Account—State Appropriation:
For transfer to the Puget Sound operating account—
state \$9,500,000

The state treasurer shall perform the transfers from the state patrol highway
 account and the highway safety account to the motor vehicle account on a
 quarterly basis.

MISCELLANEOUS

NEW SECTION. Sec. 901. 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. 902. 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.

INDEX	PAGE #
-------	--------

BOARD OF PILOTAGE COMMISSIONERS	1216
COMPENSATION ADJUSTMENT FOR CLASSIFICATION	
REVISIONS	1246
COMPENSATION ADJUSTMENT FOR SALARY SURVEY	1246
COMPENSATION—INSURANCE BENEFITS	1245
CONTRIBUTIONS TO RETIREMENT SYSTEMS	1246
COUNTY ROAD ADMINISTRATION BOARD	1216, 1232
DEPARTMENT OF AGRICULTURE	1215
DEPARTMENT OF ARCHEOLOGY AND HISTORIC PRESERVATION	1215
DEPARTMENT OF LICENSING	
DRIVER SERVICES	1222
INFORMATION SERVICES	1221, 1253
MANAGEMENT AND SUPPORT SERVICES	1221
VEHICLE SERVICES	1222
DEPARTMENT OF TRANSPORTATION	
AVIATION—PROGRAM F	1224
CHARGES FROM OTHER AGENCIES—PROGRAM U	1228
ECONOMIC PARTNERSHIPS—PROGRAM K	1255
ECONOMIC PARTNERSHIPS—PROGRAM K	1225
FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION—	
PROGRAM D	1255
FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION—	
PROGRAM D	1224
HIGHWAY MAINTENANCE—PROGRAM M	1225
IMPROVEMENTS—PROGRAM I	1234

INFORMATION TECHNOLOGY—PROGRAM C 1254
 INFORMATION TECHNOLOGY—PROGRAM C 1223
 LOCAL PROGRAMS—PROGRAM Z—CAPITAL 1240
 LOCAL PROGRAMS—PROGRAM Z—OPERATING 1232, 1262
 MARINE—PROGRAM X 1230, 1259
 PRESERVATION—PROGRAM P 1236
 PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY
 PROJECTS) 1233
 PROGRAM DELIVERY MANAGEMENT AND SUPPORT—
 PROGRAM H 1255
 PROGRAM DELIVERY MANAGEMENT AND SUPPORT—
 PROGRAM H 1224
 PUBLIC TRANSPORTATION—PROGRAM V 1229, 1258
 RAIL—PROGRAM Y—CAPITAL 1239
 RAIL—PROGRAM Y—OPERATING 1231, 1261
 TOLL OPERATIONS AND MAINTENANCE—PROGRAM B 1223
 TRAFFIC OPERATIONS—PROGRAM Q—CAPITAL 1237
 TRAFFIC OPERATIONS—PROGRAM Q—OPERATING ... 1226, 1256
 TRANSFERS 1243
 TRANSPORTATION MANAGEMENT AND SUPPORT—
 PROGRAM S 1226, 1256
 TRANSPORTATION PLANNING, DATA, AND RESEARCH—
 PROGRAM T 1226, 1257
 WASHINGTON STATE FERRIES CONSTRUCTION—
 PROGRAM W 1238
 EMPLOYEE SALARY COST OF LIVING ADJUSTMENT 1244
 FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD 1219
 INFORMATION SYSTEMS PROJECTS 1246
 JOINT TRANSPORTATION COMMITTEE 1216
 MARINE EMPLOYEES COMMISSION 1214, 1250
 STATE PARKS AND RECREATION COMMISSION 1215
 STATE TREASURER
 BOND RETIREMENT AND INTEREST 1242, 1242, 1262, 1263
 STATE REVENUES FOR DISTRIBUTION 1243, 1263
 TRANSFERS 1243, 1263
 STATUTORY APPROPRIATIONS 1244
 TRANSPORTATION COMMISSION 1218
 TRANSPORTATION IMPROVEMENT BOARD 1216, 1233
 UTILITIES AND TRANSPORTATION COMMISSION 1214
 WASHINGTON STATE PARKS AND RECREATION
 CAPITAL PROJECTS 1215
 WASHINGTON STATE PATROL 1232
 FIELD OPERATIONS BUREAU 1219
 SUPPORT SERVICES BUREAU 1253
 TECHNICAL SERVICES BUREAU 1220
 WASHINGTON TRAFFIC SAFETY COMMISSION 1216, 1251

Passed by the Senate April 24, 2005.

Passed by the House April 24, 2005.

Approved by the Governor May 9, 2005, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 9, 2005.

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

"I am returning, without my approval as to parts of Sections 103(2), page 3; 205(1), page 5; 208(7), page 10; 209(7), page 11; 223(2), pages 19-20; 305(1)(a), page 29; 305(1)(e), page 30; 305(11), page 32; 605, page 49; and 607, page 50 of Engrossed Substitute Senate Bill 6091 entitled:

"AN ACT Relating to transportation funding and appropriations."

My reasons for vetoing the above-noted sections are as follows:

Section 103(2), page 3, State Parks and Recreation Commission - All-Terrain Vehicle Study

This proviso mandates an extensive study on the existing requirements regarding all-terrain vehicles, their operators, equipment and rules. The Parks and Recreation Commission does not have the expertise or experience to perform this study, and no funding was provided to carry out this mandate.

Section 205(1), page 5, Joint Transportation Committee - Transportation Governance

Through language in this bill section, the Legislature has tasked the newly created Joint Transportation Committee to conduct a unilateral study of the appropriate functions of the Department of Transportation (Department) and the Transportation Commission (Commission). Now that the Department is a cabinet level agency, it is critical that the executive branch exercise its responsibility for reviewing the powers, functions, roles and duties of the Department and the Commission.

The Legislature passed several bills this session that redefine the roles of the Department and the Commission, and the relationship of those agencies to the Legislature. I am directing my staff to work with the Department and the Commission to examine the statutory roles and duties of the agencies, including transportation innovative partnerships, and report back to me with any recommendations for change. I invite the chairs and ranking members of the House and Senate Transportation Committees and the Joint Transportation Committee to join the executive branch in this analysis with the hope that a joint recommendation can be submitted for consideration during the 2006 legislative session.

Section 208(7), page 10, Washington State Patrol Field Operations Bureau - Ferry Security

This proviso imposes a maximum dollar amount on Washington State Patrol expenditures for activities related to ferry security.

Since 2001, the Patrol has increased security for state ferries in response to requirements set by the U.S. Coast Guard. The federal government determines the level of security that must be provided at any point in time by increasing or decreasing national threat level indicators. Limiting ferry security expenditures could prevent the Patrol from responding to federal mandates outside its control.

Although I am vetoing this proviso, I will direct the Patrol to prepare its 2005-07 spending plan using the dollar amounts identified, with any deviation from that plan subject to approval by the Office of Financial Management. In addition, the Patrol will continue to explore options to provide security to the state ferry system in the most cost-effective manner without compromising public safety or the efficiency of this vital segment of the state's transportation system.

Section 209(7), page 11, Washington State Patrol Technical Services Bureau - Ferry Security

Section 209(7) contains the same language limiting expenditures for ferry security as appears in Section 208(7). In order to ensure the spending flexibility necessary for ferry security, I am also vetoing this section.

Section 223(2), pages 19-20, Department of Transportation - Implementation of ESHB 2157 and SB 6089

This section makes funding contingent on two bills, Engrossed Substitute House Bill 2157 and Senate Bill 6089, that did not pass during the 2005 legislative session. Therefore I am vetoing this section.

Section 305(1)(a), page 29, Department of Transportation - Acquisition Plan

Section 305(1)(a) provides funding for acquisition of right-of-way for State Route 502, and directs the Department of Transportation to develop an acquisition plan in conjunction with the city of Battleground. Because none of the project funds can be spent before the plan is agreed to, the Department will not have funding for the cooperative planning effort. Vetoing the proviso allows other funds in Section 305 to be used for initial planning with the city. I have directed the Department to collaborate with Battleground on an acquisition plan to submit for legislative consideration in 2006.

Section 305(1)(e), page 30, Department of Transportation - Freight Corridor Study

A six-year study of the Eastern Washington Freight Corridor (Strategic Freight Transportation Analysis) was completed jointly by the Department of Transportation and Washington State University in 1998. This information was updated in 2004. Since this data has already been collected, there is no reason to perform the study mandated in the budget bill. I am asking the Department to provide a copy of this report to the House and Senate Transportation Committees.

Section 305(11), page 32, Department of Transportation - Removal of Median Barriers

Motorist safety barriers were installed in 2004 to prevent left turns across the highway and reduce the high level of accidents on South Kent Des Moines Road. After the project was completed, the average total collisions per year on this section of State Route 516 declined by 40 percent, injury collisions declined by 45 percent, and driveway and rear-end collisions declined by 58 percent. The City of Kent is currently planning to allow U-turns at Highway 99 to provide access to 30th Avenue South. For safety reasons, I am vetoing the mandate to remove the existing median barriers. I will direct the Department of Transportation to continue working with local government, local businesses and state legislators to develop a solution that maintains safety and improves access.

Section 605, page 49, Department of Transportation - Middle Management Staff Reduction Mandates

The legislative budget includes the middle management cuts that I proposed in my budget, but adds proviso language in Section 605 that limits the Department's discretion in implementing these cuts. Although I agree with the priorities assumed by the Legislature, I believe these additional restrictions represent an unnecessary intrusion into the administrative authority of the Governor, and I am vetoing this language. The actual cut to FTEs and dollars for middle-management positions remains in the budget and is not affected by this veto.

Section 607, page 50, Department of Transportation - Government Accounting Standards Board Compliance

This proviso directs the Department of Transportation to implement the Government Accounting Standards Board (GASB) statement 34 as it relates to asset valuation of the state's highway system. The proviso also requires the department to report additional information beyond what is required by GASB accounting standards. Since the state has already complied with GASB statement 34 for highway assets, I believe this part of the proviso is unnecessary. I am vetoing this section, and directing the Department to work with the Office of Financial Management and interested state legislators to determine if additional financial information has sufficient benefit before we commit to what could be a substantial cost and workload to exceed GASB standards.

Local Freight Projects

Although I am not vetoing section 310(8) relating to funding for freight projects, I do have concerns about the budget's approach to these allocations. Traditionally, this federal funding has been distributed using a collaborative decision process that involved the executive branch, local governments, and legislators. This approach has proved successful in addressing mutual priorities for critical freight projects, and I would prefer to use this mechanism for allocation of the remaining flexible federal funds.

With the exception of those portions of Sections 103(2), page 3; 205(1), page 5; 208(7), page 10; 209(7), page 11; 223(2), pages 19-20; 305(1)(a), page 29; 305(1)(e), page 30; 305(11), page 32; 605, page 49; and 607, page 50 as specified above, Engrossed Substitute Senate Bill 6091 is approved."

CHAPTER 314

[Engrossed Substitute Senate Bill 6103]

TRANSPORTATION REVENUE—FUEL TAX

AN ACT Relating to transportation revenue; amending RCW 82.36.025, 82.38.030, 46.68.090, 46.68.110, 82.38.035, 82.38.045, 43.84.092, 46.68.035, 46.16.237, 46.16.270, 46.20.055, 46.20.070, 46.20.117, 46.20.120, 46.20.311, 46.20.049, and 43.135.045; reenacting and amending RCW 43.84.092, 46.16.070, and 46.20.308; adding new sections to chapter 46.68 RCW; adding new sections to chapter 46.16 RCW; adding a new chapter to Title 46 RCW; creating new sections; making an appropriation; providing effective dates; providing an expiration date; and declaring an emergency.

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

PART I - VEHICLE FUEL TAXES

Sec. 101. RCW 82.36.025 and 2003 c 361 s 401 are each amended to read as follows:

(1) A motor vehicle fuel tax rate of twenty-three cents per gallon applies to the sale, distribution, or use of motor vehicle fuel.

(2) Beginning July 1, 2003, an additional and cumulative motor vehicle fuel tax rate of five cents per gallon applies to the sale, distribution, or use of motor vehicle fuel. This subsection (2) expires when the bonds issued for transportation 2003 projects are retired.

(3) Beginning July 1, 2005, an additional and cumulative motor vehicle fuel tax rate of three cents per gallon applies to the sale, distribution, or use of motor vehicle fuel.

(4) Beginning July 1, 2006, an additional and cumulative motor vehicle fuel tax rate of three cents per gallon applies to the sale, distribution, or use of motor vehicle fuel.

(5) Beginning July 1, 2007, an additional and cumulative motor vehicle fuel tax rate of two cents per gallon applies to the sale, distribution, or use of motor vehicle fuel.

(6) Beginning July 1, 2008, an additional and cumulative motor vehicle fuel tax rate of one and one-half cents per gallon applies to the sale, distribution, or use of motor vehicle fuel.

Sec. 102. RCW 82.38.030 and 2003 c 361 s 402 are each amended to read as follows:

(1) There is hereby levied and imposed upon special fuel users a tax at the rate of twenty-three cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature.

(2) Beginning July 1, 2003, an additional and cumulative tax rate of five cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel users. This subsection (2) expires when the bonds issued for transportation 2003 projects are retired.

(3) Beginning July 1, 2005, an additional and cumulative tax rate of three cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel users.

(4) Beginning July 1, 2006, an additional and cumulative tax rate of three cents per gallon of special fuel, or each one hundred cubic feet of compressed

natural gas, measured at standard pressure and temperature shall be imposed on special fuel users.

(5) Beginning July 1, 2007, an additional and cumulative tax rate of two cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel users.

(6) Beginning July 1, 2008, an additional and cumulative tax rate of one and one-half cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel users.

(7) Taxes are imposed when:

(a) Special fuel is removed in this state from a terminal if the special fuel is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is to a special fuel distributor for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320;

(b) Special fuel is removed in this state from a refinery if either of the following applies:

(i) The removal is by bulk transfer and the refiner or the owner of the special fuel immediately before the removal is not a licensee; or

(ii) The removal is at the refinery rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is to a special fuel distributor for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320;

(c) Special fuel enters into this state for sale, consumption, use, or storage if either of the following applies:

(i) The entry is by bulk transfer and the importer is not a licensee; or

(ii) The entry is not by bulk transfer;

(d) Special fuel is sold or removed in this state to an unlicensed entity unless there was a prior taxable removal, entry, or sale of the special fuel;

(e) Blended special fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended special fuel subject to tax is the difference between the total number of gallons of blended special fuel removed or sold and the number of gallons of previously taxed special fuel used to produce the blended special fuel;

(f) Dyed special fuel is used on a highway, as authorized by the internal revenue code, unless the use is exempt from the special fuel tax;

(g) Dyed special fuel is held for sale, sold, used, or is intended to be used in violation of this chapter;

(h) Special fuel purchased by an international fuel tax agreement licensee under RCW 82.38.320 is used on a highway; and

(i) Special fuel is sold by a licensed special fuel supplier to a special fuel distributor, special fuel importer, or special fuel blender and the special fuel is not removed from the bulk transfer-terminal system.

~~((4))~~ (8) The tax imposed by this chapter, if required to be collected by the licensee, is held in trust by the licensee until paid to the department, and a licensee who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this

chapter is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax.

Sec. 103. RCW 46.68.090 and 2003 c 361 s 403 are each amended to read as follows:

(1) All moneys that have accrued or may accrue to the motor vehicle fund from the motor vehicle fuel tax and special fuel tax shall be first expended for purposes enumerated in (a) and (b) of this subsection. The remaining net tax amount shall be distributed monthly by the state treasurer in accordance with subsections (2)(~~(3)~~, and ~~(4)~~) through (7) of this section.

(a) For payment of refunds of motor vehicle fuel tax and special fuel tax that has been paid and is refundable as provided by law;

(b) For payment of amounts to be expended pursuant to appropriations for the administrative expenses of the offices of state treasurer, state auditor, and the department of licensing of the state of Washington in the administration of the motor vehicle fuel tax and the special fuel tax, which sums shall be distributed monthly.

(2) All of the remaining net tax amount collected under RCW 82.36.025(1) and 82.38.030(1) shall be distributed as set forth in (a) through (j) of this section.

(a) For distribution to the motor vehicle fund an amount equal to 44.387 percent to be expended for highway purposes of the state as defined in RCW 46.68.130;

(b) For distribution to the special category C account, hereby created in the motor vehicle fund, an amount equal to 3.2609 percent to be expended for special category C projects. Special category C projects are category C projects that, due to high cost only, will require bond financing to complete construction.

The following criteria, listed in order of priority, shall be used in determining which special category C projects have the highest priority:

(i) Accident experience;

(ii) Fatal accident experience;

(iii) Capacity to move people and goods safely and at reasonable speeds without undue congestion; and

(iv) Continuity of development of the highway transportation network.

Moneys deposited in the special category C account in the motor vehicle fund may be used for payment of debt service on bonds the proceeds of which are used to finance special category C projects under this subsection (2)(b);

(c) For distribution to the Puget Sound ferry operations account in the motor vehicle fund an amount equal to 2.3283 percent;

(d) For distribution to the Puget Sound capital construction account in the motor vehicle fund an amount equal to 2.3726 percent;

(e) For distribution to the urban arterial trust account in the motor vehicle fund an amount equal to 7.5597 percent;

(f) For distribution to the transportation improvement account in the motor vehicle fund an amount equal to 5.6739 percent and expended in accordance with RCW 47.26.086;

(g) For distribution to the cities and towns from the motor vehicle fund an amount equal to 10.6961 percent in accordance with RCW 46.68.110;

(h) For distribution to the counties from the motor vehicle fund an amount equal to 19.2287 percent: (i) Out of which there shall be distributed from time to time, as directed by the department of transportation, those sums as may be necessary to carry out the provisions of RCW 47.56.725; and (ii) less any amounts appropriated to the county road administration board to implement the provisions of RCW 47.56.725(4), with the balance of such county share to be distributed monthly as the same accrues for distribution in accordance with RCW 46.68.120;

(i) For distribution to the county arterial preservation account, hereby created in the motor vehicle fund an amount equal to 1.9565 percent. These funds shall be distributed by the county road administration board to counties in proportions corresponding to the number of paved arterial lane miles in the unincorporated area of each county and shall be used for improvements to sustain the structural, safety, and operational integrity of county arterials. The county road administration board shall adopt reasonable rules and develop policies to implement this program and to assure that a pavement management system is used;

(j) For distribution to the rural arterial trust account in the motor vehicle fund an amount equal to 2.5363 percent and expended in accordance with RCW 36.79.020.

(3) ~~((One hundred percent of))~~ The remaining net tax amount collected under RCW 82.36.025(2) and 82.38.030(2) shall be distributed to the transportation 2003 account (nickel account).

(4) The remaining net tax amount collected under RCW 82.36.025(3) and 82.38.030(3) shall be distributed as follows:

(a) 8.3333 percent shall be distributed to the incorporated cities and towns of the state in accordance with RCW 46.68.110;

(b) 8.3333 percent shall be distributed to counties of the state in accordance with RCW 46.68.120; and

(c) The remainder shall be distributed to the transportation partnership account created in section 104 of this act.

(5) The remaining net tax amount collected under RCW 82.36.025(4) and 82.38.030(4) shall be distributed as follows:

(a) 8.3333 percent shall be distributed to the incorporated cities and towns of the state in accordance with RCW 46.68.110;

(b) 8.3333 percent shall be distributed to counties of the state in accordance with RCW 46.68.120; and

(c) The remainder shall be distributed to the transportation partnership account created in section 104 of this act.

(6) The remaining net tax amount collected under RCW 82.36.025 (5) and (6) and 82.38.030 (5) and (6) shall be distributed to the transportation partnership account created in section 104 of this act.

(7) Nothing in this section or in RCW 46.68.130 may be construed so as to violate any terms or conditions contained in any highway construction bond issues now or hereafter authorized by statute and whose payment is by such statute pledged to be paid from any excise taxes on motor vehicle fuel and special fuels.

NEW SECTION. Sec. 104. A new section is added to chapter 46.68 RCW to read as follows:

(1) The transportation partnership account is hereby created in the state treasury. All distributions to the account from RCW 46.68.090 must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account must be used only for projects or improvements identified as 2005 transportation partnership projects or improvements in the omnibus transportation appropriations act, including any principal and interest on bonds authorized for the projects or improvements.

(2) If a regional transportation plan has not been adopted by January 2007, the legislature intends to reprioritize allocation of funding for the projects identified on the 2005 transportation partnership project list so that complete and functioning transportation projects can be constructed in a reasonable time.

(3) By January 1, 2006, the transportation performance audit board must develop performance measures and benchmarks for the evaluation of the expenditures of the transportation partnership account. The board must also develop an audit plan and schedule for audits of the performance of the department of transportation's delivery of the plan as defined by project list, schedule, and budget enacted by the legislature.

(4) The legislature finds that:

(a) Citizens demand and deserve accountability of transportation-related programs and expenditures. Transportation-related programs must continuously improve in quality, efficiency, and effectiveness in order to increase public trust;

(b) Transportation-related agencies that receive tax dollars must continuously improve the way they operate and deliver services so citizens receive maximum value for their tax dollars; and

(c) Fair, independent, comprehensive performance audits of transportation-related agencies overseen by the elected state auditor are essential to improving the efficiency, economy, and effectiveness of the state's transportation system.

(5) For purposes of this act:

(a) "Performance audit" means an objective and systematic assessment of a state agency or agencies or any of their programs, functions, or activities by the state auditor or designee in order to help improve agency efficiency, effectiveness, and accountability. Performance audits include economy and efficiency audits and program audits.

(b) "Transportation-related agency" means any state agency, board, or commission that receives funding primarily for transportation-related purposes. At a minimum, the department of transportation, the transportation improvement board or its successor entity, the county road administration board or its successor entity, and the traffic safety commission are considered transportation-related agencies. The Washington state patrol and the department of licensing shall not be considered transportation-related agencies under this act.

(6) Within the authorities and duties under chapter 43.09 RCW, the state auditor shall establish criteria and protocols for performance audits. Transportation-related agencies shall be audited using criteria that include generally accepted government auditing standards as well as legislative mandates and performance objectives established by state agencies. Mandates include, but are not limited to, agency strategies, timelines, program objectives, and mission and goals as required in RCW 43.88.090.

(7) Within the authorities and duties under chapter 43.09 RCW, the state auditor may conduct performance audits for transportation-related agencies. The state auditor shall contract with private firms to conduct the performance audits.

(8) The audits may include:

(a) Identification of programs and services that can be eliminated, reduced, consolidated, or enhanced;

(b) Identification of funding sources to the transportation-related agency, to programs, and to services that can be eliminated, reduced, consolidated, or enhanced;

(c) Analysis of gaps and overlaps in programs and services and recommendations for improving, dropping, blending, or separating functions to correct gaps or overlaps;

(d) Analysis and recommendations for pooling information technology systems used within the transportation-related agency, and evaluation of information processing and telecommunications policy, organization, and management;

(e) Analysis of the roles and functions of the transportation-related agency, its programs, and its services and their compliance with statutory authority and recommendations for eliminating or changing those roles and functions and ensuring compliance with statutory authority;

(f) Recommendations for eliminating or changing statutes, rules, and policy directives as may be necessary to ensure that the transportation-related agency carry out reasonably and properly those functions vested in the agency by statute;

(g) Verification of the reliability and validity of transportation-related agency performance data, self-assessments, and performance measurement systems as required under RCW 43.88.090;

(h) Identification of potential cost savings in the transportation-related agency, its programs, and its services;

(i) Identification and recognition of best practices;

(j) Evaluation of planning, budgeting, and program evaluation policies and practices;

(k) Evaluation of personnel systems operation and management;

(l) Evaluation of purchasing operations and management policies and practices;

(m) Evaluation of organizational structure and staffing levels, particularly in terms of the ratio of managers and supervisors to nonmanagement personnel; and

(n) Evaluation of transportation-related project costs, including but not limited to environmental mitigation, competitive bidding practices, permitting processes, and capital project management.

(9) Within the authorities and duties under chapter 43.09 RCW, the state auditor must provide the preliminary performance audit reports to the audited state agency for comment. The auditor also may seek input on the preliminary report from other appropriate officials. Comments must be received within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the state auditor. The final performance audit report shall include the objectives, scope, and methodology; the audit

results, including findings and recommendations; the agency's response and conclusions; and identification of best practices.

(10) The state auditor shall provide final performance audit reports to the citizens of Washington, the governor, the joint legislative audit and review committee, the transportation performance audit board, the appropriate legislative committees, and other appropriate officials. Final performance audit reports shall be posted on the internet.

(11) The audited transportation-related agency is responsible for follow-up and corrective action on all performance audit findings and recommendations. The audited agency's plan for addressing each audit finding and recommendation shall be included in the final audit report. The plan shall provide the name of the contact person responsible for each action, the action planned, and the anticipated completion date. If the audited agency does not agree with the audit findings and recommendations or believes action is not required, then the action plan shall include an explanation and specific reasons.

The office of financial management shall require periodic progress reports from the audited agency until all resolution has occurred. The office of financial management is responsible for achieving audit resolution. The office of financial management shall annually report by December 31st the status of performance audit resolution to the appropriate legislative committees and the state auditor. The legislature shall consider the performance audit results in connection with the state budget process.

The auditor may request status reports on specific audits or findings.

(12) For the period from July 1, 2005, until June 30, 2007, the amount of \$4,000,000 is appropriated from the transportation partnership account to the state auditors office for the purposes of subsections (4) through (11) of this section.

(13) When appointing the citizen members with performance measurement expertise to the transportation performance audit board, the governor shall appoint the state auditor, or his or her designee.

(14) If the state auditor's financial audit of a transportation-related agency implies that a performance audit is warranted, the transportation performance audit board shall include in its annual work plan the performance audit recommended by the state auditor.

NEW SECTION. Sec. 105. A new section is added to chapter 46.68 RCW to read as follows:

The freight mobility investment account is hereby created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for freight mobility projects identified in the omnibus transportation appropriations act, including any principal and interest on bonds authorized for the projects or improvements.

Sec. 106. RCW 46.68.110 and 2003 c 361 s 404 are each amended to read as follows:

Funds credited to the incorporated cities and towns of the state as set forth in RCW 46.68.090(~~((2)(g))~~) shall be subject to deduction and distribution as follows:

(1) One and one-half percent of such sums distributed under RCW 46.68.090(~~((2)(g))~~) shall be deducted monthly as such sums are credited and set

aside for the use of the department of transportation for the supervision of work and expenditures of such incorporated cities and towns on the city and town streets thereof, including the supervision and administration of federal-aid programs for which the department of transportation has responsibility: PROVIDED, That any moneys so retained and not expended shall be credited in the succeeding biennium to the incorporated cities and towns in proportion to deductions herein made;

(2) Thirty-three one-hundredths of one percent of such funds distributed under RCW 46.68.090(~~((2)(g))~~) shall be deducted monthly, as such funds accrue, and set aside for the use of the department of transportation for the purpose of funding the cities' share of the costs of highway jurisdiction studies and other studies. Any funds so retained and not expended shall be credited in the succeeding biennium to the cities in proportion to the deductions made;

(3) One percent of such funds distributed under RCW 46.68.090(~~((2)(g))~~) shall be deducted monthly, as such funds accrue, to be deposited in the urban arterial trust account, to implement the city hardship assistance program, as provided in RCW 47.26.164. However, any moneys so retained and not required to carry out the program as of July 1st of each odd-numbered year thereafter, shall be provided within sixty days to the treasurer and distributed in the manner prescribed in subsection (5) of this section;

(4) After making the deductions under subsections (1) through (3) of this section and RCW 35.76.050, 31.86 percent of the fuel tax distributed to the cities and towns in RCW 46.68.090(~~((2)(g))~~) shall be allocated to the incorporated cities and towns in the manner set forth in subsection (5) of this section and subject to deductions in subsections (1), (2), and (3) of this section, subject to RCW 35.76.050, to be used exclusively for: The construction, improvement, chip sealing, seal-coating, and repair for arterial highways and city streets as those terms are defined in RCW 46.04.030 and 46.04.120; the maintenance of arterial highways and city streets for those cities with a population of less than fifteen thousand; or the payment of any municipal indebtedness which may be incurred in the construction, improvement, chip sealing, seal-coating, and repair of arterial highways and city streets; and

(5) The balance remaining to the credit of incorporated cities and towns after such deduction shall be apportioned monthly as such funds accrue among the several cities and towns within the state ratably on the basis of the population last determined by the office of financial management.

Sec. 107. RCW 82.38.035 and 2003 c 361 s 405 are each amended to read as follows:

(1) A licensed supplier shall remit tax on special fuel to the department as provided in RCW 82.38.030(~~((3)(a))~~) (7)(a). On a two-party exchange, or buy-sell agreement between two licensed suppliers, the receiving exchange partner or buyer shall remit the tax.

(2) A refiner shall remit tax to the department on special fuel removed from a refinery as provided in RCW 82.38.030(~~((3)(b))~~) (7)(b).

(3) An importer shall remit tax to the department on special fuel imported into this state as provided in RCW 82.38.030(~~((3)(c))~~) (7)(c).

(4) A blender shall remit tax to the department on the removal or sale of blended special fuel as provided in RCW 82.38.030(~~((3)(e))~~) (7)(e).

(5) A dyed special fuel user shall remit tax to the department on the use of dyed special fuel as provided in RCW 82.38.030(~~((3)(f))~~) (7)(f).

Sec. 108. RCW 82.38.045 and 1998 c 176 s 54 are each amended to read as follows:

A terminal operator is jointly and severally liable for remitting the tax imposed under RCW 82.38.030(~~((4))~~) if, at the time of removal:

(1) The position holder with respect to the special fuel is a person other than the terminal operator and is not a licensee;

(2) The terminal operator is not a licensee;

(3) The position holder has an expired internal revenue service notification certificate issued under chapter 26, C.F.R. Part 48; or

(4) The terminal operator had reason to believe that information on the notification certificate was false.

Sec. 109. RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, 2003 c 150 s 2, and 2003 c 48 s 2 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 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 common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data

processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the freight mobility investment account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the 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 Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure 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 supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this

subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 110. RCW 43.84.092 and 2004 c 242 s 60 are each 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 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 common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the freight mobility investment account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the 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 Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure 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 supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health

insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(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. 111. A new section is added to chapter 46.68 RCW to read as follows:

Beginning July 1, 2007, and each year thereafter, the state treasurer shall transfer five million dollars from the multimodal account to the transportation infrastructure account created under RCW 82.44.190. The funds must be distributed for rail capital improvements only.

PART II - FEES ADMINISTERED ACCORDING TO VEHICLE WEIGHT

NEW SECTION. Sec. 201. (1) There shall be paid and collected annually for motor vehicles subject to the fee under RCW 46.16.0621, except motor homes, a vehicle weight fee. The amount of the fee shall be based upon the vehicle scale weight, which is correlated with vehicle size and roadway lane usage. Fees imposed under this section must be used for transportation purposes, and shall not be used for the general support of state government. The vehicle weight fee shall be that portion of the fee as reflected on the scale weight set forth in schedule B provided in RCW 46.16.070 that is in excess of the fee imposed under RCW 46.16.0621. This fee is due at the time of initial and renewal of vehicle registration.

(2) If the resultant weight according to this section is not listed in schedule B provided in RCW 46.16.070, it shall be increased to the next higher weight pursuant to chapter 46.44 RCW.

(3) For the purpose of administering this section, the department shall rely on the vehicle empty scale weights as provided by vehicle manufacturers, or other sources defined by the department, to determine the weight of each vehicle. The department shall adopt rules for determining weight for vehicles without manufacturer empty scale weights.

(4) The vehicle weight fee under this section is imposed to provide funds to mitigate the impact of vehicle loads on the state roads and highways and is separate and distinct from other vehicle license fees. Proceeds from the fee may be used for transportation purposes, or for facilities and activities that reduce the number of vehicles or load weights on the state roads and highways.

(5) The vehicle weight fee collected under this section shall be deposited as follows:

(a) On July 1, 2006, six million dollars shall be deposited into the freight mobility investment account created in section 105 of this act, and the remainder collected from the effective date of this section, through June 30, 2006, shall be deposited into the multimodal transportation account;

(b) Beginning July 1, 2007, and every July 1st thereafter, three million dollars shall be deposited into the freight mobility investment account created in section 105 of this act, and the remainder shall be deposited into the multimodal transportation account.

NEW SECTION. Sec. 202. In addition to any other fees or charges, there shall be paid and collected annually for motor homes a vehicle weight fee of seventy-five dollars. This fee is due at the time of initial and renewal of vehicle registration. The fee collected under this section shall be deposited in the multimodal transportation account.

NEW SECTION. Sec. 203. A new section is added to chapter 46.16 RCW to read as follows:

In lieu of the license tab fees provided in RCW 46.16.0621, private use single-axle trailers of two thousand pounds scale weight or less may be licensed upon the payment of a license fee in the sum of fifteen dollars, but only if the trailer is operated upon public highways. The license fee must be collected annually for each registration year or fraction of a registration year. This reduced license fee applies only to trailers operated for personal use of the owners, and not trailers held for rental to the public or used in any commercial or business endeavor. The proceeds from the fees collected under this section shall be distributed in accordance with RCW 46.68.035.

Sec. 204. RCW 46.16.070 and 2003 c 361 s 201 and 2003 c 1 s 3 are each reenacted and amended to read as follows:

(1) In lieu of all other vehicle licensing fees, unless specifically exempt, and in addition to the mileage fees prescribed for buses and stages in RCW 46.16.125, there shall be paid and collected annually for each truck, motor truck, truck tractor, road tractor, tractor, bus, auto stage, or for hire vehicle with seating capacity of more than six, based upon the declared combined gross weight or declared gross weight under chapter 46.44 RCW, the following licensing fees by (~~such gross~~) weight:

((DECLARED GROSS)) WEIGHT	SCHEDULE A	SCHEDULE B
4,000 lbs.	\$ ((30.00))	\$ ((30.00))
	<u>40.00</u>	<u>40.00</u>
6,000 lbs.	\$ ((30.00))	\$ ((30.00))
	<u>50.00</u>	<u>50.00</u>
8,000 lbs.	\$ ((30.00))	\$ ((30.00))
	<u>60.00</u>	<u>60.00</u>
10,000 lbs.	\$ 62.00	\$ 62.00
12,000 lbs.	\$ 79.00	\$ 79.00
14,000 lbs.	\$ 90.00	\$ 90.00
16,000 lbs.	\$ 102.00	\$ 102.00
18,000 lbs.	\$ 154.00	\$ 154.00
20,000 lbs.	\$ 171.00	\$ 171.00
22,000 lbs.	\$ 185.00	\$ 185.00
24,000 lbs.	\$ 200.00	\$ 200.00
26,000 lbs.	\$ 211.00	\$ 211.00
28,000 lbs.	\$ 249.00	\$ 249.00
30,000 lbs.	\$ 287.00	\$ 287.00
32,000 lbs.	\$ 346.00	\$ 346.00
34,000 lbs.	\$ 368.00	\$ 368.00
36,000 lbs.	\$ 399.00	\$ 399.00
38,000 lbs.	\$ 438.00	\$ 438.00
40,000 lbs.	\$ 501.00	\$ 501.00
42,000 lbs.	\$ 521.00	\$ 611.00
44,000 lbs.	\$ 532.00	\$ 622.00
46,000 lbs.	\$ 572.00	\$ 662.00
48,000 lbs.	\$ 596.00	\$ 686.00
50,000 lbs.	\$ 647.00	\$ 737.00
52,000 lbs.	\$ 680.00	\$ 770.00
54,000 lbs.	\$ 734.00	\$ 824.00
56,000 lbs.	\$ 775.00	\$ 865.00
58,000 lbs.	\$ 806.00	\$ 896.00
60,000 lbs.	\$ 859.00	\$ 949.00
62,000 lbs.	\$ 921.00	\$ 1,011.00
64,000 lbs.	\$ 941.00	\$ 1,031.00
66,000 lbs.	\$ 1,048.00	\$ 1,138.00
68,000 lbs.	\$ 1,093.00	\$ 1,183.00
70,000 lbs.	\$ 1,177.00	\$ 1,267.00
72,000 lbs.	\$ 1,259.00	\$ 1,349.00
74,000 lbs.	\$ 1,368.00	\$ 1,458.00
76,000 lbs.	\$ 1,478.00	\$ 1,568.00
78,000 lbs.	\$ 1,614.00	\$ 1,704.00
80,000 lbs.	\$ 1,742.00	\$ 1,832.00
82,000 lbs.	\$ 1,863.00	\$ 1,953.00
84,000 lbs.	\$ 1,983.00	\$ 2,073.00
86,000 lbs.	\$ 2,104.00	\$ 2,194.00
88,000 lbs.	\$ 2,225.00	\$ 2,315.00
90,000 lbs.	\$ 2,346.00	\$ 2,436.00
92,000 lbs.	\$ 2,466.00	\$ 2,556.00
94,000 lbs.	\$ 2,587.00	\$ 2,677.00
96,000 lbs.	\$ 2,708.00	\$ 2,798.00
98,000 lbs.	\$ 2,829.00	\$ 2,919.00
100,000 lbs.	\$ 2,949.00	\$ 3,039.00
102,000 lbs.	\$ 3,070.00	\$ 3,160.00
104,000 lbs.	\$ 3,191.00	\$ 3,281.00
105,500 lbs.	\$ 3,312.00	\$ 3,402.00

Schedule A applies to vehicles either used exclusively for hauling logs or that do not tow trailers. Schedule B applies to vehicles that tow trailers and are not covered under Schedule A.

Every truck, motor truck, truck tractor, and tractor exceeding 6,000 pounds empty scale weight registered under chapter 46.16, 46.87, or 46.88 RCW shall be licensed for not less than one hundred fifty percent of its empty weight unless the amount would be in excess of the legal limits prescribed for such a vehicle in RCW 46.44.041 or 46.44.042, in which event the vehicle shall be licensed for the maximum weight authorized for such a vehicle or unless the vehicle is used only for the purpose of transporting any well drilling machine, air compressor, rock crusher, conveyor, hoist, donkey engine, cook house, tool house, bunk house, or similar machine or structure attached to or made a part of such vehicle.

The following provisions apply when increasing gross or combined gross weight for a vehicle licensed under this section:

(a) The new license fee will be one-twelfth of the fee listed above for the new gross weight, multiplied by the number of months remaining in the period for which licensing fees have been paid, including the month in which the new gross weight is effective.

(b) Upon surrender of the current certificate of registration or cab card, the new licensing fees due shall be reduced by the amount of the licensing fees previously paid for the same period for which new fees are being charged.

(2) The proceeds from the fees collected under subsection (1) of this section shall be distributed in accordance with RCW 46.68.035.

(3) In lieu of the gross weight fee under subsection (1) of this section, farm vehicles may be licensed upon payment of the fee in effect under subsection (1) of this section on May 1, 2005. In order to qualify for the reduced fee under this subsection, the farm vehicle must be exempt from property taxes in accordance with RCW 84.36.630. The applicant must submit copies of the forms required under RCW 84.36.630. The application for the reduced fee under this subsection shall require the applicant to attest that the vehicle shall be used primarily for farming purposes. The department shall provide licensing agents and subagents with a schedule of the appropriate licensing fees for farm vehicles.

Sec. 205. RCW 46.68.035 and 2003 c 361 s 202 are each amended to read as follows:

All proceeds from combined vehicle licensing fees received by the director for vehicles licensed under RCW 46.16.070 and 46.16.085, the license fee under section 203 of this act, and the farm vehicle trip permit under section 206 of this act shall be forwarded to the state treasurer to be distributed into accounts according to the following method:

(1) The sum of two dollars for each vehicle shall be deposited into the multimodal transportation account, except that for each vehicle registered by a county auditor or agent to a county auditor pursuant to RCW 46.01.140, the sum of two dollars shall be credited to the current county expense fund.

(2) The remainder shall be distributed as follows:

(a) ~~((21.963))~~ 24.00 percent shall be deposited into the state patrol highway account of the motor vehicle fund;

(b) ~~((4.414))~~ 1.8 percent shall be deposited into the Puget Sound ferry operations account of the motor vehicle fund;

(c) ~~((7.240))~~ 6.38 percent shall be deposited into the transportation 2003 account (nickel account); and

(d) On July 1, 2006, six million dollars shall be deposited into the freight mobility investment account created in section 105 of this act and beginning on July 1, 2007, and every July 1st thereafter, three million dollars shall be deposited into the freight mobility investment account created in section 105 of this act;

(e) The remaining proceeds shall be deposited into the motor vehicle fund.

NEW SECTION. Sec. 206. A new section is added to chapter 46.16 RCW to read as follows:

(1) The owner of a farm vehicle licensed under RCW 46.16.090 purchasing a monthly license under RCW 46.16.135 may, as an alternative to the first partial month of the license registration, secure and operate the vehicle under authority of a farm vehicle trip permit issued by this state. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles nor forty thousand pounds for a single unit vehicle with three or more axles.

(2) If a monthly license previously issued has expired, the owner of a farm vehicle may, as an alternative to purchasing a full monthly license, secure and operate the vehicle under authority of a farm vehicle trip permit issued by this state. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles nor forty thousand pounds for a single unit vehicle with three or more axles.

(3) Each farm vehicle trip permit shall authorize the operation of a single vehicle at the maximum legal weight limit for the vehicle for the period remaining in the first month of monthly license, commencing with the day of first use. No more than four such permits may be used for any one vehicle in any twelve-month period. Every permit shall identify, as the department may require, the vehicle for which it is issued and shall be completed in its entirety and signed by the operator before operation of the vehicle on the public highways of this state. Correction of data on the permit such as dates, license number, or vehicle identification number invalidates the permit. The farm vehicle trip permit shall be displayed on the vehicle to which it is issued as prescribed by the department.

(4) Vehicles operating under authority of farm vehicle trip permits are subject to all laws, rules, and regulations affecting the operation of like vehicles in this state.

(5) Farm vehicle trip permits may be obtained from the department of licensing or agents and subagents appointed by the department. The fee for each farm vehicle trip permit is six dollars and twenty-five cents. Farm vehicle trip permits sold by the department's agents or subagents are subject to fees specified in RCW 46.01.140 (4)(a), (5)(b), or (6).

(6) The proceeds from farm vehicle trip permits received by the director shall be forwarded to the state treasurer to be distributed as provided in RCW 46.68.035.

(7) No exchange, credits, or refunds may be given for farm vehicle trip permits after they have been purchased.

(8) The department of licensing may adopt rules as it deems necessary to administer this section.

PART III - MISCELLANEOUS FEES

Sec. 301. RCW 46.16.237 and 1987 c 52 s 1 are each amended to read as follows:

All vehicle license number plates issued after January 1, 1968, or such earlier date as the director may prescribe with respect to plates issued in any county, shall be treated with fully reflectorized materials designed to increase the visibility and legibility of such plates at night. In addition to all other fees prescribed by law, there shall be paid and collected for each vehicle license number plate treated with such materials, the sum of (~~(fifty cents)~~) two dollars and for each set of two plates, the sum of (~~(one dollar; PROVIDED; HOWEVER,)~~) four dollars. However, one plate is available only to those vehicles that by law require only one plate. Such fees shall be deposited in the motor vehicle fund.

Sec. 302. RCW 46.16.270 and 1997 c 291 s 3 are each amended to read as follows:

The total replacement plate fee shall be deposited in the motor vehicle fund. Upon the loss, defacement, or destruction of one or both of the vehicle license number plates issued for any vehicle where more than one plate was originally issued or where one or both have become so illegible or in such a condition as to be difficult to distinguish, or upon the owner's option, the owner of the vehicle shall make application for new vehicle license number plates upon a form furnished by the director. The application shall be filed with the director or the director's authorized agent, accompanied by the certificate of license registration of the vehicle and a fee in the amount of (~~(three)~~) ten dollars per plate, whereupon the director, or the director's authorized agent, shall issue new vehicle license number plates to the applicant. It shall be accompanied by a fee of two dollars for a new motorcycle license number plate. In the event the director has issued license period tabs or a windshield emblem instead of vehicle license number plates, and upon the loss, defacement, or destruction of the tabs or windshield emblem, application shall be made on a form provided by the director and in the same manner as above described, and shall be accompanied by a fee of one dollar for each pair of tabs or for each windshield emblem, whereupon the director shall issue to the applicant a duplicate pair of tabs, year tabs, and when necessary month tabs or a windshield emblem to replace those lost, defaced, or destroyed. For vehicles owned, rented, or leased by the state of Washington or by any county, city, town, school district, or other political subdivision of the state of Washington or United States government, or owned or leased by the governing body of an Indian tribe as defined in RCW 46.16.020, a fee shall be charged for replacement of a vehicle license number plate only to the extent required by the provisions of RCW 46.16.020, (~~(46.16.061,)~~) 46.16.237, and 46.01.140. For vehicles owned, rented, or leased by foreign countries or international bodies to which the United States government is a signatory by treaty, the payment of any fee for the replacement of a vehicle license number plate shall not be required.

Sec. 303. RCW 46.20.055 and 2004 c 249 s 3 are each amended to read as follows:

(1) **Driver's instruction permit.** The department may issue a driver's instruction permit with or without a photograph to an applicant who has

successfully passed all parts of the examination other than the driving test, provided the information required by RCW 46.20.091, paid a fee of ~~((fifteen))~~ twenty dollars, and meets the following requirements:

- (a) Is at least fifteen and one-half years of age; or
- (b) Is at least fifteen years of age and:
 - (i) Has submitted a proper application; and
 - (ii) Is enrolled in a traffic safety education program offered, approved, and accredited by the superintendent of public instruction or offered by a driver training school licensed and inspected by the department of licensing under chapter 46.82 RCW, that includes practice driving.

(2) **Waiver of written examination for instruction permit.** The department may waive the written examination, if, at the time of application, an applicant is enrolled in:

- (a) A traffic safety education course as defined by RCW 28A.220.020(2); or
- (b) A course of instruction offered by a licensed driver training school as defined by RCW 46.82.280(1).

The department may require proof of registration in such a course as it deems necessary.

(3) **Effect of instruction permit.** A person holding a driver's instruction permit may drive a motor vehicle, other than a motorcycle, upon the public highways if:

- (a) The person has immediate possession of the permit; and
- (b) An approved instructor, or a licensed driver with at least five years of driving experience, occupies the seat beside the driver.

(4) **Term of instruction permit.** A driver's instruction permit is valid for one year from the date of issue.

- (a) The department may issue one additional one-year permit.

(b) The department may issue a third driver's permit if it finds after an investigation that the permittee is diligently seeking to improve driving proficiency.

(c) A person applying to renew an instruction permit must submit the application to the department in person.

Sec. 304. RCW 46.20.070 and 2004 c 249 s 4 are each amended to read as follows:

(1) **Agricultural driving permit authorized.** The director may issue a juvenile agricultural driving permit to a person under the age of eighteen years if:

(a) The application is signed by the applicant and the applicant's father, mother, or legal guardian;

(b) The applicant has passed the driving examination required by RCW 46.20.120;

(c) The department has investigated the applicant's need for the permit and determined that the need justifies issuance;

(d) The department has determined the applicant is capable of operating a motor vehicle without endangering himself or herself or other persons and property; and

- (e) The applicant has paid a fee of ~~((fifteen))~~ twenty dollars.

The permit must contain a photograph of the person.

(2) **Effect of agricultural driving permit.** (a) The permit authorizes the holder to:

(i) Drive a motor vehicle on the public highways of this state in connection with farm work. The holder may drive only within a restricted farming locality described on the permit; and

(ii) Participate in the classroom portion of a traffic safety education course authorized under RCW 28A.220.030 or the classroom portion of a traffic safety education course offered by a driver training school licensed and inspected by the department of licensing under chapter 46.82 RCW offered in the community where the holder resides.

(b) The director may transfer the permit from one farming locality to another. A transfer is not a renewal of the permit.

(3) **Term and renewal of agricultural driving permit.** An agricultural driving permit expires one year from the date of issue.

(a) A person under the age of eighteen who holds a permit may renew the permit by paying a fee of fifteen dollars.

(b) A person applying to renew an agricultural driving permit must submit the application to the department in person.

(c) An agricultural driving permit is invalidated when a permittee attains age eighteen. In order to drive a motor vehicle on a highway he or she must obtain a motor vehicle driver's license under this chapter.

(4) **Suspension, revocation, or cancellation.** The director has sole discretion to suspend, revoke, or cancel a juvenile agricultural driving permit if:

(a) The permittee has been found to have committed an offense that requires mandatory suspension or revocation of a driver's license; or

(b) The director is satisfied that the permittee has violated the permit's restrictions.

Sec. 305. RCW 46.20.117 and 2004 c 249 s 5 are each amended to read as follows:

(1) **Issuance.** The department shall issue an identicard, containing a picture, if the applicant:

(a) Does not hold a valid Washington driver's license;

(b) Proves his or her identity as required by RCW 46.20.035; and

(c) Pays the required fee. The fee is (~~fifteen~~) twenty dollars unless an applicant is a recipient of continuing public assistance grants under Title 74 RCW, who is referred in writing by the secretary of social and health services. For those persons the fee must be the actual cost of production of the identicard.

(2) **Design and term.** The identicard must:

(a) Be distinctly designed so that it will not be confused with the official driver's license; and

(b) Expire on the fifth anniversary of the applicant's birthdate after issuance.

(3) **Renewal.** An application for identicard renewal may be submitted by means of:

(a) Personal appearance before the department; or

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her identicard by mail or by electronic commerce when it last expired. However, the department may accept an application for renewal of an identicard submitted by means of mail or electronic

commerce only if specific authority and funding is provided for this purpose by June 30, 2004, in the omnibus transportation appropriations act.

An identicard may not be renewed by mail or by electronic commerce unless the renewal issued by the department includes a photograph of the identicard holder.

(4) **Cancellation.** The department may cancel an identicard if the holder of the identicard used the card or allowed others to use the card in violation of RCW 46.20.0921.

Sec. 306. RCW 46.20.120 and 2004 c 249 s 6 are each amended to read as follows:

An applicant for a new or renewed driver's license must successfully pass a driver licensing examination to qualify for a driver's license. The department shall give examinations at places and times reasonably available to the people of this state.

(1) **Waiver.** The department may waive:

(a) All or any part of the examination of any person applying for the renewal of a driver's license unless the department determines that the applicant is not qualified to hold a driver's license under this title; or

(b) The actual demonstration of the ability to operate a motor vehicle if the applicant:

(i) Surrenders a valid driver's license issued by the person's previous home state; and

(ii) Is otherwise qualified to be licensed.

(2) **Fee.** Each applicant for a new license must pay an examination fee of ~~((ten))~~ twenty dollars.

(a) The examination fee is in addition to the fee charged for issuance of the license.

(b) "New license" means a license issued to a driver:

(i) Who has not been previously licensed in this state; or

(ii) Whose last previous Washington license has been expired for more than five years.

(3) An application for driver's license renewal may be submitted by means of:

(a) Personal appearance before the department; or

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her license by mail or by electronic commerce when it last expired. However, the department may accept an application for renewal of a driver's license submitted by means of mail or electronic commerce only if specific authority and funding is provided for this purpose by June 30, 2004, in the omnibus transportation appropriations act.

(4) A person whose license expired or will expire while he or she is living outside the state, may:

(a) Apply to the department to extend the validity of his or her license for no more than twelve months. If the person establishes to the department's satisfaction that he or she is unable to return to Washington before the date his or her license expires, the department shall extend the person's license. The department may grant consecutive extensions, but in no event may the cumulative total of extensions exceed twelve months. An extension granted under this section does not change the expiration date of the license for purposes

of RCW 46.20.181. The department shall charge a fee of five dollars for each license extension;

(b) Apply to the department to renew his or her license by mail or, if permitted by rule of the department, by electronic commerce even if subsection (3)(b) of this section would not otherwise allow renewal by that means. If the person establishes to the department's satisfaction that he or she is unable to return to Washington within twelve months of the date that his or her license expires, the department shall renew the person's license by mail or, if permitted by rule of the department, by electronic commerce.

(5) If a qualified person submits an application for renewal under subsection (3)(b) or (4)(b) of this section, he or she is not required to pass an examination nor provide an updated photograph. A license renewed by mail or by electronic commerce that does not include a photograph of the licensee must be labeled "not valid for identification purposes."

Sec. 307. RCW 46.20.308 and 2004 c 187 s 1 and 2004 c 95 s 2 are each reenacted and amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug in his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503. Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. However, in those instances where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility or where the officer has reasonable grounds to believe that the person is under the influence of a drug, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(5). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver, in substantially the following language, that:

(a) If the driver refuses to take the test, the driver's license, permit, or privilege to drive will be revoked or denied for at least one year; and

(b) If the driver refuses to take the test, the driver's refusal to take the test may be used in a criminal trial; and

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if the driver is age twenty-one or over and the test indicates the

alcohol concentration of the driver's breath or blood is 0.08 or more, or if the driver is under age twenty-one and the test indicates the alcohol concentration of the driver's breath or blood is 0.02 or more, or if the driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504.

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) If, after arrest and after the other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more if the person is age twenty-one or over, or 0.02 or more if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive as required by subsection (7) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (8) of this section;

(c) Mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department;

(d) Serve notice in writing that the marked license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(e) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood

test, a sworn report or report under a declaration authorized by RCW 9A.72.085 that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol concentration in violation of RCW 46.61.503;

(ii) That after receipt of the warnings required by subsection (2) of this section the person refused to submit to a test of his or her blood or breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.08 or more if the person is age twenty-one or over, or was 0.02 or more if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(7) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW 9A.72.085 under subsection (6)(e) of this section, shall suspend, revoke, or deny the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, or denial to be effective beginning sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first.

(8) A person receiving notification under subsection (6)(b) of this section may, within thirty days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of (~~(one)~~) two hundred dollars as part of the request. If the request is mailed, it must be postmarked within thirty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required (~~(one)~~) two hundred dollar fee, the department shall afford the person an opportunity for a hearing. The department may waive the required (~~(one)~~) two hundred dollar fee if the person is an indigent as defined in RCW 10.101.010. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license marked under subsection (6)(c) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more if the person was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests

upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered without express consent as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more if the person was age twenty-one or over at the time of the arrest, or 0.02 or more if the person was under the age of twenty-one at the time of the arrest. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by RCW 9A.72.085 of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, or denial either be rescinded or sustained.

(9) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law. The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b)

that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

(10)(a) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, or denied under subsection (7) of this section, other than as a result of a breath or blood test refusal, and who has not committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (7) of this section, the court may direct the department to stay any actual or proposed suspension, revocation, or denial for at least forty-five days but not more than ninety days. If the court stays the suspension, revocation, or denial, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license marked under subsection (6) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary marked license or extension of a temporary license issued under this subsection.

(b) A suspension, revocation, or denial imposed under this section, other than as a result of a breath or blood test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(c) The provisions of (b) of this subsection relating to a stay of a suspension, revocation, or denial and the cancellation of any suspension, revocation, or denial do not apply to the suspension, revocation, denial, or disqualification of a person's commercial driver's license or privilege to operate a commercial motor vehicle.

(11) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

Sec. 308. RCW 46.20.311 and 2004 c 95 s 3 are each amended to read as follows:

(1)(a) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one

year, except as specifically permitted under RCW 46.20.267, 46.20.342, or other provision of law.

(b) Except for a suspension under RCW 46.20.267, 46.20.289, 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or driving privilege of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the suspension shall remain in effect until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(c) If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reinstatement until enrollment and participation in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, and the person is required pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with a functioning ignition interlock, the department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an interlock required under RCW 46.20.720 is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(d) Whenever the license or driving privilege of any person is suspended as a result of certification of noncompliance with a child support order under chapter 74.20A RCW or a residential or visitation order, the suspension shall remain in effect until the person provides a release issued by the department of social and health services stating that the person is in compliance with the order.

(e)(i) The department shall not issue to the person a new, duplicate, or renewal license until the person pays a reissue fee of (~~twenty~~) seventy-five dollars.

(ii) If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, or is the result of administrative action under RCW 46.20.308, the reissue fee shall be one hundred fifty dollars.

(2)(a) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (i) After the expiration of one year from the date the license or privilege to drive was revoked; (ii) after the expiration of the applicable revocation period provided by RCW 46.20.3101 or 46.61.5055; (iii) after the expiration of two years for persons convicted of vehicular homicide; or (iv) after the expiration of the applicable revocation period provided by RCW 46.20.265.

(b)(i) After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reissue fee in the amount of (~~(twenty)~~) seventy-five dollars.

(ii) If the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one hundred fifty dollars. If the revocation is the result of a violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reissuance of a license, permit, or privilege to drive until enrollment and participation in an approved program has been established and the person is otherwise qualified. If the revocation is the result of a violation of RCW 46.61.502 or 46.61.504, and the person is required pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device, the department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person applying for a new license. If, following issuance of a new license, the department determines, based upon notification from the interlock provider or otherwise, that an interlock required under RCW 46.20.720 is no longer functioning, the department shall suspend the person's license or privilege to drive until the department has received written verification from an interlock provider that a functioning interlock is installed.

(c) Except for a revocation under RCW 46.20.265, the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. For a revocation under RCW 46.20.265, the department shall not issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant that person the privilege of driving a motor vehicle on the public highways.

(3)(a) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue to the person any new or renewal license until the person pays a reissue fee of (~~(twenty)~~) seventy-five dollars.

(b) If the suspension is the result of a violation of the laws of this or any other state, province, or other jurisdiction involving (i) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (ii) the refusal to submit to a chemical test of the driver's blood alcohol content, the reissue fee shall be one hundred fifty dollars.

Sec. 309. RCW 46.20.049 and 1999 c 308 s 4 are each amended to read as follows:

There shall be an additional fee for issuing any class of commercial driver's license in addition to the prescribed fee required for the issuance of the original driver's license. The additional fee for each class shall (~~(not exceed twenty)~~) be thirty dollars for the original commercial driver's license or subsequent renewals(~~(, unless)~~). If the commercial driver's license is renewed or extended for a period other than five years, (~~(in which case)~~) the fee for each class shall

~~((not exceed four))~~ be six dollars for each year that the commercial driver's license is renewed or extended. The fee shall be deposited in the highway safety fund.

PART IV - MISCELLANEOUS PROVISIONS

Sec. 401. RCW 43.135.045 and 2003 1st sp.s. c 25 s 920 are each amended to read as follows:

(1) The emergency reserve fund is established in the state treasury. During each fiscal year, the state treasurer shall deposit in the emergency reserve fund all general fund—state revenues in excess of the state expenditure limit for that fiscal year. Deposits shall be made at the end of each fiscal quarter based on projections of state revenues and the state expenditure limit. The treasurer shall make transfers between these accounts as necessary to reconcile actual annual revenues and the expenditure limit for fiscal year 2000 and thereafter.

(2) The legislature may appropriate moneys from the emergency reserve fund only with approval of at least two-thirds of the members of each house of the legislature, and then only if the appropriation does not cause total expenditures to exceed the state expenditure limit under this chapter.

(3) The emergency reserve fund balance shall not exceed five percent of annual general fund—state revenues as projected by the official state revenue forecast. Any balance in excess of five percent shall be transferred on a quarterly basis by the state treasurer as follows: Seventy-five percent to the student achievement fund hereby created in the state treasury and twenty-five percent to the general fund balance. The treasurer shall make transfers between these accounts as necessary to reconcile actual annual revenues for fiscal year 2000 and thereafter. When per-student state funding for the maintenance and operation of K-12 education meets a level of no less than ninety percent of the national average of total funding from all sources per student as determined by the most recent published data from the national center for education statistics of the United States department of education, as calculated by the office of financial management, further deposits to the student achievement fund shall be required only to the extent necessary to maintain the ninety-percent level. Remaining funds are part of the general fund balance and these funds are subject to the expenditure limits of this chapter.

(4) The education construction fund is hereby created in the state treasury.

(a) Funds may be appropriated from the education construction fund exclusively for common school construction or higher education construction.

(b) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection shall result in an adjustment to the state expenditure limit only for the fiscal period for which the appropriation is made and shall not affect any subsequent fiscal period.

(5) Funds from the student achievement fund shall be appropriated to the superintendent of public instruction strictly for distribution to school districts to meet the provisions set out in the student achievement act. Allocations shall be made on an equal per full-time equivalent student basis to each school district.

~~((6) Earnings of the emergency reserve fund under RCW 43.84.092(4)(a) shall be transferred quarterly to the multimodal transportation account, except for those earnings that are in excess of thirty-five million dollars each fiscal year. Within thirty days following any fiscal year in which earnings transferred to the multimodal transportation account under this subsection did not total thirty-five million dollars, the state treasurer shall transfer from the emergency reserve fund an amount necessary to bring the total deposited in the multimodal transportation account under this subsection to thirty-five million dollars. The revenues to the multimodal transportation account reflected in this subsection provide ongoing support for the transportation programs of the state. However, it is the intent of the legislature that any new long-term financial support that may be subsequently provided for transportation programs will be used to replace and supplant the revenues reflected in this subsection, thereby allowing those revenues to be returned to the purposes to which they were previously dedicated. No transfers from the emergency reserve fund to the multimodal fund shall be made during the 2003-05 fiscal biennium.))~~

NEW SECTION. Sec. 402. Sections 201 through 206, 301, and 302 of this act apply to vehicle registrations that are due or become due on or after January 1, 2006.

NEW SECTION. Sec. 403. (1) Section 110 of this act takes effect July 1, 2006.

(2) Sections 201 through 206 of this act take effect January 1, 2006.

NEW SECTION. Sec. 404. Sections 201 and 202 of this act constitute a new chapter in Title 46 RCW.

NEW SECTION. Sec. 405. Sections 101 through 107, 109, 303 through 310, and 401 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2005.

NEW SECTION. Sec. 406. Section 109 of this act expires July 1, 2006.

NEW SECTION. Sec. 407. Part headings used in this act are not part of the law.

Passed by the Senate April 20, 2005.

Passed by the House April 24, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 315

[Engrossed Substitute House Bill 2311]

TRANSPORTATION FUNDING—BONDS

AN ACT Relating to authorizing bonds for transportation funding; adding new sections to chapter 47.10 RCW; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. In order to provide funds necessary for the location, design, right of way, and construction of selected projects or improvements that are identified as 2005 transportation partnership projects or improvements in the omnibus transportation budget, there shall be issued and

sold upon the request of the department of transportation a total of five billion one hundred million dollars of general obligation bonds of the state of Washington.

NEW SECTION. Sec. 2. Upon the request of the department of transportation, as appropriate, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds in this act in accordance with chapter 39.42 RCW. Bonds authorized by this act shall be sold in the manner, at time or times, in amounts, and at the price as the state finance committee shall determine. No bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

NEW SECTION. Sec. 3. The proceeds from the sale of bonds authorized by section 1 of this act shall be deposited in the transportation partnership account in the motor vehicle fund. The proceeds shall be available only for the purposes enumerated in section 1 of this act, for the payment of bond anticipation notes, if any, and for the payment of bond issuance costs, including the costs of underwriting.

NEW SECTION. Sec. 4. Bonds issued under the authority of sections 1 through 6 of this act shall distinctly state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The principal and interest on the bonds shall be first payable in the manner provided in sections 1 through 6 of this act from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapters 82.36 and 82.38 RCW. Proceeds of these excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of sections 1 through 6 of this act, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of sections 1 through 6 of this act.

NEW SECTION. Sec. 5. Both principal and interest on the bonds issued for the purposes of sections 1 through 6 of this act shall be payable from the highway bond retirement fund. The state finance committee may provide that a special account be created in the fund to facilitate payment of the principal and interest. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings. The state treasurer shall withdraw revenues from the transportation partnership account in the motor vehicle fund and deposit in the highway bond retirement fund, or a special account in the fund, such amounts, and at such times, as are required by the bond proceedings.

Any funds required for bond retirement or interest on the bonds authorized by sections 1 through 6 of this act shall be taken from that portion of the motor

vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and that is distributed to the transportation partnership account in the motor vehicle fund. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues to the state, counties, cities, and towns unless the amount arising from excise taxes on motor vehicle and special fuels distributed to the transportation 2005 account proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the motor vehicle fuel or special fuel taxes that are distributable to the state, counties, cities, and towns shall be repaid from the first revenues from the motor vehicle fuel or special fuel taxes distributed to the transportation partnership account not required for bond retirement or interest on the bonds.

NEW SECTION. Sec. 6. Bonds issued under the authority of sections 1 through 5 of this act and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act are each added to chapter 47.10 RCW.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005.

Passed by the House April 24, 2005.

Passed by the Senate April 24, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 316

[Engrossed Substitute Senate Bill 5121]

AVIATION PLANNING COUNCIL

AN ACT Relating to determining long-term air transportation needs; adding new sections to chapter 47.68 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 47.68 RCW to read as follows:

(1) The aviation division of the department of transportation shall conduct a statewide airport capacity and facilities assessment. The assessment must include a statewide analysis of existing airport facilities, and passenger and air cargo transportation capacity, regarding both commercial aviation and general aviation; however, the primary focus of the assessment must be on commercial aviation. The assessment must at a minimum address the following issues:

(a) Existing airport facilities, both commercial and general aviation, including air side, land side, and airport service facilities;

(b) Existing air and airport capacity, including the number of annual passengers and air cargo operations;

(c) Existing airport services, including fixed based operator services, fuel services, and ground services; and

(d) Existing airspace capacity.

(2) The department shall consider existing information, technical analyses, and other research the department deems appropriate. The department may contract and consult with private independent professional and technical experts regarding the assessment.

(3) The department shall submit the assessment to the appropriate standing committees of the legislature, the governor, the transportation commission, and regional transportation planning organizations by July 1, 2006.

NEW SECTION. Sec. 2. A new section is added to chapter 47.68 RCW to read as follows:

(1) After submitting the assessment under section 1 of this act, the aviation division of the department of transportation shall conduct a statewide airport capacity and facilities market analysis. The analysis must include a statewide needs analysis of airport facilities, passenger and air cargo transportation capacity, and demand and forecast market needs over the next twenty-five years with a more detailed analysis of the Puget Sound, southwest Washington, Spokane, and Tri-Cities regions. The analysis must address the forecasted needs of both commercial aviation and general aviation; however, the primary focus of the analysis must be on commercial aviation. The analysis must at a minimum address the following issues:

(a) A forecast of future airport facility needs based on passenger and air cargo operations and demand, airline planning, and a determination of aviation trends, demographic, geographic, and market factors that may affect future air travel demand;

(b) A determination of when the state's existing commercial service airports will reach their capacity;

(c) The factors that may affect future air travel and when capacity may be reached and in which location;

(d) The role of the state, metropolitan planning organizations, regional transportation planning organizations, the federal aviation administration, and airport sponsors in addressing statewide airport facilities and capacity needs; and

(e) Whether the state, metropolitan planning organizations, regional transportation planning organizations, the federal aviation administration, or airport sponsors have identified options for addressing long-range capacity needs at airports, or in regions, that will reach capacity before the year 2030.

(2) The department shall consider existing information, technical analyses, and other research the department deems appropriate. The department may contract and consult with private independent professional and technical experts regarding the analysis.

(3) The department shall submit the analysis to the appropriate standing committees of the legislature, the governor, the transportation commission, and regional transportation planning organizations by July 1, 2007.

NEW SECTION. Sec. 3. A new section is added to chapter 47.68 RCW to read as follows:

(1) Upon completion of both the statewide assessment and analysis required under sections 1 and 2 of this act, and to the extent funds are appropriated to the department for this purpose, the governor shall appoint an aviation planning council to consist of the following members: (a) The director of the aviation division of the department of transportation, or a designee; (b) the director of the department of community, trade, and economic development, or a designee; (c) a member of the transportation commission, who shall be the chair of the council; (d) two members of the general public familiar with airport issues, including the impacts of airports on communities, one of whom must be from western Washington and one of whom must be from eastern Washington; (e) a technical expert familiar with federal aviation administration airspace and control issues; (f) a commercial airport operator; (g) a member of a growth management hearings board; (h) a representative of the Washington airport management association; and (i) an airline representative. The chair of the council may designate another councilmember to serve as the acting chair in the absence of the chair. The department of transportation shall provide all administrative and staff support for the council.

(2) The purpose of the council is to make recommendations, based on the findings of the assessment and analysis completed under sections 1 and 2 of this act, regarding how best to meet the statewide commercial and general aviation capacity needs, as determined by the council. The council shall determine which regions of the state are in need of improvement regarding the matching of existing, or projected, airport facilities, and the long-range capacity needs at airports within the region expected to reach capacity before the year 2030. After determining these areas, the council shall make recommendations regarding the placement of future commercial and general aviation airport facilities designed to meet the need for improved aviation planning in the region. The council shall include public input in making final recommendations.

(3) The council shall submit its recommendations to the appropriate standing committees of the legislature, the governor, the transportation commission, and applicable regional transportation planning organizations.

(4) This section expires July 1, 2009.

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, 2005, in the omnibus transportation appropriations act, this act is null and void.

Passed by the Senate April 18, 2005.

Passed by the House April 14, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 317

[Substitute House Bill 1541]

TRANSPORTATION INNOVATIVE PARTNERSHIPS PROGRAM

AN ACT Relating to transportation innovative partnerships; adding a new section to chapter 47.04 RCW; and adding a new chapter to Title 47 RCW.

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

NEW SECTION. Sec. 1. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature finds that the public-private initiatives act created under chapter 47.46 RCW has not met the needs and expectations of the public or private sectors for the development of transportation projects. The legislature intends to phase out chapter 47.46 RCW coincident with the completion of the Tacoma Narrows Bridge - SR 16 public-private partnership. From the effective date of this act, this chapter will provide a more desirable and effective approach to developing transportation projects in partnership with the private sector by applying lessons learned from other states and from this state's ten-year experience with chapter 47.46 RCW.

(2) It is the legislature's intent to achieve the following goals through the creation of this new approach to public-private partnerships:

(a) To provide a well-defined mechanism to facilitate the collaboration between public and private entities in transportation;

(b) To bring innovative thinking from the private sector and other states to bear on public projects within the state;

(c) To provide greater flexibility in achieving the transportation projects; and

(d) To allow for creative cost and risk sharing between the public and private partners.

(3) The legislature intends that the powers granted in this chapter to the commission or department are in addition to any powers granted under chapter 47.56 RCW.

(4) It is further the intent of the legislature that the commission shall be responsible for receiving, reviewing, and approving proposals with technical support of the department; rule making; and for oversight of contract execution. The department shall be responsible for evaluating proposals and negotiating contracts.

NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this section apply throughout this chapter.

(1) "Authority" means the transportation commission.

(2) "Commission" means the transportation commission.

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

(4) "Eligible project" means any project eligible for development under section 5 of this act.

(5) "Eligible public works project" means only a project that meets the criteria of either section 6 (3) or (4) of this act.

(6) "Private sector partner" and "private partner" means a person, entity, or organization that is not the federal government, a state, or a political subdivision of a state.

(7) "Public funds" means all moneys derived from taxes, fees, charges, tolls, etc.

(8) "Public sector partner" and "public partner" means any federal or state unit of government, bistate transportation organization, or any other political subdivision of a state.

(9) "Transportation innovative partnership program" or "program" means the program as outlined in section 4 of this act.

(10) "Transportation project" means a project, whether capital or operating, where the state's primary purpose for the project is to preserve or facilitate the

safe transport of people or goods via any mode of travel. However, this does not include projects that are primarily for recreational purposes, such as parks, hiking trails, off-road vehicle trails, etc.

(11) "Unit of government" means any department or agency of the federal government, any state or agency, office, or department of a state, any city, county, district, commission, authority, entity, port, or other public corporation organized and existing under statutory law or under a voter-approved charter or initiative, and any intergovernmental entity created under chapter 39.34 RCW or this chapter.

PART I POWERS AND DUTIES OF TRANSPORTATION COMMISSION

NEW SECTION. Sec. 3. TRANSPORTATION COMMISSION POWERS AND RESPONSIBILITIES. In addition to the powers it now possesses, the commission shall:

- (1) Approve or review contracts or agreements authorized in this chapter;
- (2) Adopt rules to carry out this chapter and govern the program, which at a minimum must address the following issues:
 - (a) The types of projects allowed; however, all allowed projects must be included in the Washington transportation plan or identified by the authority as being a priority need for the state;
 - (b) The types of contracts allowed, with consideration given to the best practices available;
 - (c) The composition of the team responsible for the evaluation of proposals to include:
 - (i) Washington state department of transportation staff;
 - (ii) An independent representative of a consulting or contracting field with no interests in the project that is prohibited from becoming a project manager for the project and bidding on any part of the project;
 - (iii) An observer from the state auditor's office or the joint legislative audit and review committee;
 - (iv) A person appointed by the commission, if the secretary of transportation is a cabinet member, or appointed by the governor if the secretary of transportation is not a cabinet member; and
 - (v) A financial expert;
 - (d) Minimum standards and criteria required of all proposals;
 - (e) Procedures for the proper solicitation, acceptance, review, and evaluation of projects;
 - (f) Criteria to be considered in the evaluation and selection of proposals that includes:
 - (i) Comparison with the department's internal ability to complete the project that documents the advantages of completing the project as a partnership versus solely as a public venture; and
 - (ii) Factors such as, but not limited to: priority, cost, risk sharing, scheduling, and management conditions;
 - (g) The protection of confidential proprietary information while still meeting the need for public disclosure that is consistent with section 19 of this act;

(h) Protection for local contractors to participate in subcontracting opportunities;

(i) Specifying that maintenance issues must be resolved in a manner consistent with the personnel system reform act, chapter 41.80 RCW;

(j) Specifying that provisions regarding patrolling and law enforcement on a public facility are subject to approval by the Washington state patrol;

(3) Adopt guidelines to address security and performance issues.

Preliminary rules and guidelines developed under this section must be submitted to the chairs and ranking members of both transportation committees by November 30, 2005, for review and comment. All final rules and guidelines must be submitted to the full legislature during the 2006 session for review.

PART II

TRANSPORTATION INNOVATIVE PARTNERSHIPS PROGRAM

NEW SECTION. **Sec. 4. PURPOSE OF TRANSPORTATION INNOVATIVE PARTNERSHIPS.** The Transportation Innovative Partnerships Act is created for the planning, acquisition, design, financing, management, development, construction, reconstruction, replacement, improvement, maintenance, preservation, repair, and operation of transportation projects. The goals of this chapter are to:

- (1) Reduce the cost of transportation project delivery;
- (2) Recover transportation investment costs;
- (3) Develop an expedited project delivery process;
- (4) Encourage business investment in public infrastructure;
- (5) Use any fund source outside the state treasury, where financially advantageous and in the public interest;
- (6) Maximize innovation;
- (7) Develop partnerships between and among private entities and the public sector for the advancement of public purposes on mutually beneficial terms;
- (8) Create synergies between and among public sector entities to develop projects that serve both transportation and other important public purposes; and
- (9) Access specialized construction management and project management services and techniques available in the private sector.

NEW SECTION. **Sec. 5. ELIGIBLE PROJECTS.** Projects eligible for development under this chapter include:

(1) Transportation projects, whether capital or operating, where the state's primary purpose for the project is to facilitate the safe transport of people or goods via any mode of travel. However, this does not include projects that are primarily for recreational purposes, such as parks, hiking trails, off-road vehicle trails, etc.; and

(2) Facilities, structures, operations, properties, vehicles, vessels, or the like that are developed concurrently with an eligible transportation project and that are capable of (a) providing revenues to support financing of an eligible transportation project, or (b) that are public projects that advance public purposes unrelated to transportation.

NEW SECTION. **Sec. 6. ELIGIBLE TYPES OF FINANCING.** (1) Subject to the limitations in this section, the department may, in connection with the evaluation of eligible projects, consider any financing mechanisms identified

under subsections (3) through (5) of this section or any other lawful source, either integrated as part of a project proposal or as a separate, stand-alone proposal to finance a project. Financing may be considered for all or part of a proposed project. A project may be financed in whole or in part with:

(a) The proceeds of grant anticipation revenue bonds authorized by 23 U.S.C. Sec. 122 and applicable state law. Legislative authorization and appropriation is required in order to use this source of financing;

(b) Grants, loans, loan guarantees, lines of credit, revolving lines of credit, or other financing arrangements available under the Transportation Infrastructure Finance and Innovation Act under 23 U.S.C. Sec. 181 et seq., or any other applicable federal law;

(c) Infrastructure loans or assistance from the state infrastructure bank established by RCW 82.44.195;

(d) Federal, state, or local revenues, subject to appropriation by the applicable legislative authority;

(e) User fees, tolls, fares, lease proceeds, rents, gross or net receipts from sales, proceeds from the sale of development rights, franchise fees, or any other lawful form of consideration.

(2) As security for the payment of financing described in this section, the revenues from the project may be pledged, but no such pledge of revenues constitutes in any manner or to any extent a general obligation of the state. Any financing described in this section may be structured on a senior, parity, or subordinate basis to any other financing.

(3) For any transportation project developed under this chapter that is owned, leased, used, or operated by the state, as a public facility, if indebtedness is issued, it must be issued by the state treasurer for the transportation project.

(4) For other public projects defined in section 5(2) of this act that are developed in conjunction with a transportation project, financing necessary to develop, construct, or operate the public project must be approved by the state finance committee or by the governing board of a public benefit corporation as provided in the federal Internal Revenue Code section 63-20;

(5) For projects that are developed in conjunction with a transportation project but are not themselves a public facility or public project, any lawful means of financing may be used.

NEW SECTION. Sec. 7. USE OF FEDERAL FUNDS AND SIMILAR SOURCES OF REVENUE. The department may accept from the United States or any of its agencies such funds as are available to this state or to any other unit of government for carrying out the purposes of this chapter, whether the funds are made available by grant, loan, or other financing arrangement. The department may enter into such agreements and other arrangements with the United States or any of its agencies as may be necessary, proper, and convenient for carrying out the purposes of this chapter, subject to section 8 of this act.

NEW SECTION. Sec. 8. OTHER SOURCES OF VALUABLE CONSIDERATION AUTHORIZED. The department may accept from any source any grant, donation, gift, or other form of conveyance of land, money, other real or personal property, or other valuable thing made to the state of Washington, the department, or a local government for carrying out the purposes of this chapter.

Any eligible project may be financed in whole or in part by contribution of any funds or property made by any private entity or public sector partner that is a party to any agreement entered into under this chapter.

NEW SECTION. Sec. 9. REVIEW, EVALUATION, AND SELECTION OF POTENTIAL PROJECTS. (1) Subject to subsection (2) of this section, the commission may:

(a) Solicit concepts or proposals for eligible projects from private entities and units of government;

(b) On or after January 1, 2007, accept unsolicited concepts or proposals for eligible projects from private entities and units of government, subject to section 17 of this act;

(c) Direct the department to evaluate projects for inclusion in the transportation innovative partnerships program that are already programmed or identified for traditional development by the state;

(d) Direct the department to evaluate the concepts or proposals received under this section; and

(e) Select potential projects based on the concepts or proposals. The evaluation under this subsection must include consultation with any appropriate unit of government.

(2) Before undertaking any of the activities contained in subsection (1) of this section, the commission must have:

(a) Completed the tolling feasibility study; and

(b) Adopted rules specifying procedures for the proper solicitation, acceptance, review, and evaluation of projects, which procedures must include:

(i) A comparison with the department's internal ability to complete the project that documents the advantages of completing the project as a partnership versus solely as a public venture; and

(ii) Factors such as priority, cost, risk sharing, scheduling, and management conditions.

NEW SECTION. Sec. 10. ADMINISTRATIVE FEE AUTHORIZED. The department may charge a reasonable administrative fee for the evaluation of an unsolicited project proposal. The amount of the fee will be established in rules of the commission.

NEW SECTION. Sec. 11. AUTHORIZATION TO SPEND FUNDS FOR EVALUATION AND NEGOTIATION OF PROPOSALS. The department may spend, out of any funds identified for the purpose, such moneys as may be necessary for the evaluation of concepts or proposals for eligible projects and for negotiating agreements for eligible projects authorized by this chapter. The department may employ engineers, consultants, or other experts the department determines are needed for the purposes of doing the evaluation and negotiation. Expenses incurred by the department under this section before the issuance of transportation project bonds or other financing must be paid by the department and charged to the appropriate project. The department shall keep records and accounts showing each amount so charged.

Unless otherwise provided in the omnibus transportation budget the funds spent by the department under this section in connection with the project must be repaid from the proceeds of the bonds or other financing upon the sale of

transportation project bonds or upon obtaining other financing for an eligible project, as allowed by law or contract.

NEW SECTION. Sec. 12. CONSULTATION WITH EXPERTS AUTHORIZED. The commission and department may consult with legal, financial, and other experts inside and outside the public sector in the evaluation, negotiation, and development of projects under this chapter, consistent with RCW 43.10.040 where applicable.

NEW SECTION. Sec. 13. ENVIRONMENTAL, ENGINEERING, AND TECHNICAL STUDIES CONTRACTED. Notwithstanding any other provision of law, and in the absence of any direct federal funding or direction, the department may contract with a private developer of a selected project proposal to conduct environmental impact studies and engineering and technical studies.

NEW SECTION. Sec. 14. TERMS OF PARTNERSHIP AGREEMENTS.
(1) The following provisions must be included in any agreement to which the state is a party:

(a) For any project that proposes terms for stand-alone maintenance or asset management services for a public facility, those services must be provided in a manner consistent with any collective bargaining agreements, the personnel system reform act (chapter 41.80 RCW), and civil service laws that are in effect for the public facility;

(b) Transportation projects that are selected for development under this chapter must be identified in the Washington transportation plan or be identified by the authority as being a priority need for the state;

(c) If there is a tolling component to the project, then it must be specified that tolling technology used in the project must be consistent with tolling technology standards adopted by the department for transportation-related projects;

(d) Provisions for bonding, financial guarantees, deposits, or the posting of other security to secure the payment of laborers, subcontractors, and suppliers who perform work or provide materials as part of the project;

(e) All projects must be financed in a manner consistent with section 6 of this act. This chapter is null and void if this subsection or section 6 of this act fails to become law or is held invalid by a court of final jurisdiction.

(2) Agreements between the state and private sector partners entered into under this section must specifically include the following contractual elements:

(a) The point in the project at which public and private sector partners will enter the project and which partners will assume responsibility for specific project elements;

(b) How the partners will share management of the risks of the project;

(c) How the partners will share the costs of development of the project;

(d) How the partners will allocate financial responsibility for cost overruns;

(e) The penalties for nonperformance;

(f) The incentives for performance;

(g) The accounting and auditing standards to be used to evaluate work on the project;

(h) For any project that reverts to public ownership, the responsibility for reconstruction or renovations that are required in order for a facility to meet all applicable government standards upon reversion of the facility to the state; and

(i) Provisions for patrolling and law enforcement on transportation projects that are public facilities.

NEW SECTION. Sec. 15. PUBLIC INVOLVEMENT AND PARTICIPATION PLAN. (1) Before final approval, agreements entered into under this chapter must include a process that provides for public involvement and participation with respect to the development of the projects. This plan must be submitted along with the proposed agreement, and both must be approved under section 16 of this act before the state may enter a binding agreement.

(2) All workshops, forums, open houses, meetings, public hearings, or similar public gatherings must be administered and attended by representatives of the state and any other public entities that are party to an agreement authorized by this chapter.

NEW SECTION. Sec. 16. PROCESS FOR FINAL APPROVAL AND EXECUTION OF CONTRACTS. (1) Before approving an agreement under subsection (2) of this section, the commission, with the technical assistance of the department, must:

(a) Prepare a financial analysis that fully discloses all project costs, direct and indirect, including costs of any financing;

(b) Publish notice and make available the contents of the agreement, with the exception of patent information, at least twenty days before the public hearing required in (c) of this subsection; and

(c) Hold a public hearing on the proposed agreement, with proper notice provided at least twenty days before the hearing. The public hearing must be held within the boundaries of the county seat of the county containing the project.

(2) The commission must allow at least twenty days from the public hearing on the proposed agreement required under subsection (1)(c) of this section before approving and executing any agreements authorized under this chapter.

NEW SECTION. Sec. 17. UNSOLICITED PROJECT PROPOSALS. Before accepting any unsolicited project proposals, the commission must adopt rules to facilitate the acceptance, review, evaluation, and selection of unsolicited project proposals. These rules must include the following:

(1) Provisions that specify unsolicited proposals must meet predetermined criteria;

(2) Provisions governing procedures for the cessation of negotiations and consideration;

(3) Provisions outlining that unsolicited proposals are subject to a two-step process that begins with concept proposals and would only advance to the second step, which are fully detailed proposals, if the commission so directed;

(4) Provisions that require concept proposals to include at least the following information: Proposers' qualifications and experience; description of the proposed project and impact; proposed project financing; and known public benefits and opposition; and

(5) Provisions that specify the process to be followed if the commission is interested in the concept proposal, which must include provisions:

(a) Requiring that information regarding the potential project would be published for a period of not less than thirty days, during which time entities could express interest in submitting a proposal;

(b) Specifying that if letters of interest were received during the thirty days, then an additional sixty days for submission of the fully detailed proposal would be allowed; and

(c) Procedures for what will happen if there are insufficient proposals submitted or if there are no letters of interest submitted in the appropriate time frame.

The commission may adopt other rules as necessary to avoid conflicts with existing laws, statutes, or contractual obligations of the state.

The commission may not accept or consider any unsolicited proposals before January 1, 2007.

NEW SECTION. Sec. 18. ADVISORY COMMITTEES REQUIRED FOR LARGE PROJECTS. For projects with costs, including financing costs, of three hundred million dollars or greater, advisory committees are required.

(1) The commission must establish an advisory committee to advise with respect to eligible projects. An advisory committee must consist of not fewer than five and not more than nine members, as determined by the public partners. Members must be appointed by the commission, or for projects with joint public sector participation, in a manner agreed to by the commission and any participating unit of government. In making appointments to the committee, the commission shall consider persons or organizations offering a diversity of viewpoints on the project.

(2) An advisory committee shall review concepts or proposals for eligible projects and submit comments to the public sector partners.

(3) An advisory committee shall meet as necessary at times and places fixed by the department, but not less than twice per year. The state shall provide personnel services to assist the advisory committee within the limits of available funds. An advisory committee may adopt rules to govern its proceedings and may select officers.

(4) An advisory committee must be dissolved once the project has been fully constructed and debt issued to pay for the project has been fully retired.

NEW SECTION. Sec. 19. CONFIDENTIAL INFORMATION. A proposer shall identify those portions of a proposal that the proposer considers to be confidential, proprietary information, or trade secrets and provide any justification as to why these materials, upon request, should not be disclosed by the authority. Patent information will be covered until the patent expires. Other information such as originality of design or records of negotiation may only be protected under this section until an agreement is reached. Disclosure must occur before final agreement and execution of the contract. Projects under federal jurisdiction or using federal funds must conform to federal regulations under the Freedom of Information Act.

NEW SECTION. Sec. 20. APPLICATION OF PREVAILING WAGE LAW. If public funds are used to pay any costs of construction of a public facility that is part of an eligible project, chapter 39.12 RCW applies to the entire eligible public works project.

NEW SECTION. Sec. 21. JOINT AGREEMENTS WITH OTHER GOVERNMENTAL ENTITIES. The state may, either separately or in combination with any other public sector partner, enter into working agreements, coordination agreements, or similar implementation agreements, including the formation of bistate transportation organizations, to carry out the joint implementation of a transportation project selected under this chapter. The state may enter into agreements with other units of government or Canadian provinces for transborder transportation projects.

NEW SECTION. Sec. 22. EMINENT DOMAIN. The state may exercise the power of eminent domain to acquire property, rights of way, or other rights in property for projects that are necessary to implement an eligible project developed under this chapter, regardless of whether the property will be owned in fee simple by the state.

PART III GENERAL PROVISIONS

NEW SECTION. Sec. 23. CREATION OF TRANSPORTATION INNOVATIVE PARTNERSHIP ACCOUNT. (1) The transportation innovative partnership account is established in the custody of the state treasurer separate and distinct from the state general fund. Interest earned by the transportation innovative partnership account must be credited to the account. The account is subject to allotment procedures under chapter 43.88 RCW.

(2) The following moneys must be deposited into the transportation innovative partnership account:

(a) Proceeds from bonds or other financing instruments issued under section 25 of this act;

(b) Revenues received from any transportation project developed under this chapter or developed under the general powers granted to the department; and

(c) Any other moneys that are by donation, grant, contract, law, or other means transferred, allocated, or appropriated to the account.

(3) Moneys in the transportation innovative partnership account may only be expended upon evidence of approval by the Washington state legislature, either upon appropriation of supporting state funds or by other statutory direction.

(4) The state treasurer shall serve as a fiduciary for the purpose of carrying out this chapter and implementing all or portions of any transportation project financed under this chapter.

(5) Moneys in the transportation innovative partnership account that were derived from revenue subject to Article II, section 40 (Amendment 18) of the Washington state Constitution, may be used only for purposes authorized by that provision of the state Constitution.

(6) The state treasurer shall establish separate subaccounts within the transportation innovative partnership account for each transportation project that is initiated under this chapter or under the general powers granted to the department. Except as provided in subsection (5) of this section, the state may pledge moneys in the transportation innovative partnership account to secure revenue bonds or any other debt obligations relating to the project for which the account is established.

NEW SECTION. Sec. 24. USE OF TRANSPORTATION INNOVATIVE PARTNERSHIP ACCOUNT. (1) The state may use moneys in the transportation innovative partnership subaccount to ensure the repayment of loan guarantees or extensions of credit made to or on behalf of private entities engaged in the planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, preservation, management, repair, or operation of any eligible project that is related to a subaccount established under this chapter.

(2) The lien of a pledge made under this section is subordinate to the lien of a pledge securing bonds payable from moneys in the motor vehicle fund established in RCW 46.68.070, or the transportation innovative partnership account established in section 23 of this act.

NEW SECTION. Sec. 25. AUTHORITY TO ISSUE REVENUE BONDS AND OTHER OBLIGATIONS. (1) In addition to any authority the commission or department has to issue and sell bonds and other similar obligations, this section establishes continuing authority for the issuance and sale of bonds and other similar obligations in a manner consistent with this section. To finance a project in whole or in part, the commission may request that the state treasurer issue revenue bonds on behalf of the public sector partner. The bonds must be secured by a pledge of, and a lien on, and be payable only from moneys in the transportation innovative partnership account established in section 23 of this act, and any other revenues specifically pledged to repayment of the bonds. Such a pledge by the public partner creates a lien that is valid and binding from the time the pledge is made. Revenue bonds issued under this section are not general obligations of the state or local government and are not secured by or payable from any funds or assets of the state other than the moneys and revenues specifically pledged to the repayment of such revenue bonds.

(2) Moneys received from the issuance of revenue bonds or other debt obligations, including any investment earnings thereon, may be spent:

(a) For the purpose of financing the costs of the project for which the bonds are issued;

(b) To pay the costs and other administrative expenses of the bonds;

(c) To pay the costs of credit enhancement or to fund any reserves determined to be necessary or advantageous in connection with the revenue bonds; and

(d) To reimburse the public sector partners for any costs related to carrying out the projects authorized under this chapter.

PART IV ALTERNATIVE CONTRACTING AND INNOVATIVE PROJECT MANAGEMENT

NEW SECTION. Sec. 26. STUDY OF ALTERNATIVE CONTRACTING AND PROJECT MANAGEMENT AUTHORITIES. The department shall conduct a study of:

(1) The contracting powers and project management authorities it currently possesses; those same powers and authorities authorized under this chapter; and those powers and authorities employed by other states or the private sector;

(2) Methods of encouraging competition for the development of transportation projects; and

(3) Any additional procedures that may be necessary or desirable for negotiating contracts in situations of a single qualified bidder, in either solicited or unsolicited proposals.

The department must submit its report, along with any recommended legislative changes, to the commission by November 1, 2005, and to the governor and the legislature for consideration in the 2006 legislative session.

**PART V
CONSTRUCTION**

NEW SECTION. Sec. 27. CONFORMITY WITH FEDERAL LAWS. Notwithstanding any provision of this chapter, applicable federal laws, rules, and regulations govern in any situation that involves federal funds if the federal laws, rules, or regulations:

(1) Conflict with any provision of this chapter;

(2) Require procedures that are additional to or different from those provided in this chapter; or

(3) Require contract provisions not authorized in this chapter. If no federal funds are provided, state laws, rates, and rules will govern.

NEW SECTION. Sec. 28. Captions used in this chapter are not part of the law.

NEW SECTION. Sec. 29. Sections 1 through 28 of this act constitute a new chapter in Title 47 RCW.

NEW SECTION. Sec. 30. A new section is added to chapter 47.04 RCW to read as follows:

The department of transportation may impose and collect latecomer fees on behalf of another entity for infrastructure improvement projects initially funded partially or entirely by private sources. However, there must be an agreement in place between the department of transportation and the entity, before the imposition and collection of any such fees, that specifies (1) the collection process, (2) the maximum amount that may be collected, and (3) the period of time during which the collection may occur.

Passed by the House April 20, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 318

[Substitute House Bill 2124]

OFFICE OF TRANSIT MOBILITY

AN ACT Relating to increasing state participation in public transportation service and planning; amending RCW 47.66.030 and 47.66.040; adding new sections to chapter 47.01 RCW; adding a new section to chapter 47.66 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that the state needs to reestablish itself as a leader in public transportation.

The legislature also finds that increased demands on transportation resources require increased coordination among public transportation service providers.

The legislature also finds that the efficiency of transportation corridors would be enhanced by a more proactive and integrated approach to public transportation service delivery and planning.

The legislature also finds that the state department of transportation is in the unique position of being able to improve connectivity between service territories of transit agencies and modes of transportation.

The legislature also finds that the state should be a center of excellence in public transportation planning and research and providing technical assistance to transit agencies serving urban, suburban, and rural areas.

Therefore, it is the intent of the legislature that the state department of transportation be a leader in public transportation. The department shall play a guiding role in coordinating decentralized public transportation services, increasing connectivity between them, advocating for public transportation as a means to increase corridor efficiency, and increasing the integration of public transportation and the highway system.

NEW SECTION. Sec. 2. A new section is added to chapter 47.01 RCW to read as follows:

(1) The secretary shall establish an office of transit mobility. The purpose of the office is to facilitate the integration of decentralized public transportation services with the state transportation system. The goals of the office of transit mobility are: (a) To facilitate connection and coordination of transit services and planning; and (b) maximizing opportunities to use public transportation to improve the efficiency of transportation corridors.

(2) The duties of the office include, but are not limited to, the following:

(a) Developing a statewide strategic plan that creates common goals for transit agencies and reduces competing plans for cross-jurisdictional service;

(b) Developing a park and ride lot program;

(c) Encouraging long-range transit planning;

(d) Providing public transportation expertise to improve linkages between regional transportation planning organizations and transit agencies;

(e) Strengthening policies for inclusion of transit and transportation demand management strategies in route development, corridor plan standards, and budget proposals;

(f) Recommending best practices to integrate transit and demand management strategies with regional and local land use plans in order to reduce traffic and improve mobility and access;

(g) Producing recommendations for the public transportation section of the Washington transportation plan; and

(h) Participating in all aspects of corridor planning, including freight planning, ferry system planning, and passenger rail planning.

(3) In forming the office, the secretary shall use existing resources to the greatest extent possible.

(4) The office of transit mobility shall establish measurable performance objectives for evaluating the success of its initiatives and progress toward accomplishing the overall goals of the office.

(5) The office of transit mobility must report quarterly to the secretary, and annually to the transportation committees of the legislature, on the progress of the office in meeting the goals and duties provided in this section.

NEW SECTION. Sec. 3. A new section is added to chapter 47.01 RCW to read as follows:

Local and regional transportation agencies shall adopt common transportation goals. The office of transit mobility shall review local and regional transportation plans, including plans required under RCW 35.58.2795, 36.70A.070(6), 36.70A.210, and 47.80.023, to provide for the efficient integration of multimodal and multijurisdictional transportation planning.

Sec. 4. RCW 47.66.030 and 1996 c 49 s 3 are each amended to read as follows:

~~(1)((a))~~ The ~~((transportation improvement board is authorized and responsible for the final selection of programs and projects funded from the central Puget Sound public transportation account; public transportation systems account; and the intermodal surface transportation and efficiency act of 1991, surface transportation program, statewide competitive))~~ department shall establish a regional mobility grant program. The purpose of the grant program is to aid local governments in funding projects such as intercounty connectivity service, park and ride lots, rush hour transit service, and capital projects that improve the connectivity and efficiency of our transportation system. The department shall identify cost-effective projects that reduce delay for people and goods and improve connectivity between counties and regional population centers. The department shall submit a prioritized list of all projects requesting funding to the legislature by December 1st of each year.

~~((b))~~ ~~(2)~~ The ~~((board))~~ department may establish ~~((subcommittees as well as technical))~~ an advisory committee~~((s))~~ to carry out the mandates of this chapter.

~~((2))~~ ~~Expenses of the board, including administrative expenses for managing the program, shall be paid in accordance with RCW 47.26.140.)~~

(3) The department must report annually to the transportation committees of the legislature on the status of any grants projects funded by the program created under this section.

Sec. 5. RCW 47.66.040 and 1995 c 269 s 2606 are each amended to read as follows:

(1) The ~~((transportation improvement board))~~ department shall select ~~((programs and))~~ projects based on a competitive process ~~((consistent with the mandates governing each account or source of funds)).~~ The competition shall be consistent with the following criteria:

- (a) Local, regional, and state transportation plans;
- (b) Local transit development plans; and
- (c) Local comprehensive land use plans.

(2) The following criteria shall be considered by the ~~((board))~~ department in selecting programs and projects:

(a) Objectives of the growth management act, the high capacity transportation act, the commute trip reduction act, transportation demand management programs, federal and state air quality requirements, and federal Americans with Disabilities Act and related state accessibility requirements; and

(b) Enhancing the efficiency of regional corridors in moving people among jurisdictions and modes of transportation, energy efficiency issues, reducing delay for people and goods, freight and goods movement as related to economic development, regional significance, rural isolation, the leveraging of other funds ((including funds administered by this board)), and safety and security issues.

(3) The ~~((board))~~ department shall determine the appropriate level of local match required for each ~~((program and))~~ project based on the source of funds.

NEW SECTION. Sec. 6. A new section is added to chapter 47.66 RCW to read as follows:

Beginning in 2005, and every other year thereafter, the department shall examine the division's existing grant programs, and the methods used to allocate grant funds, to determine the program's effectiveness, and whether the methods used to allocate funds result in an equitable distribution of the grants. The department shall submit a report of the findings to the transportation committees of the legislature.

NEW SECTION. Sec. 7. If Senate Bill No. 6103 is not enacted by June 30, 2005, this act is null and void.

Passed by the House April 23, 2005.

Passed by the Senate April 22, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 319

[Engrossed Senate Bill 5513]

TRANSPORTATION AGENCIES—RESTRUCTURING

AN ACT Relating to restructuring of certain transportation agencies; amending RCW 43.17.020, 47.01.041, 47.01.061, 47.01.071, 47.05.021, 47.05.030, 47.05.035, 47.05.051, 44.75.020, 44.75.030, 44.75.040, 44.75.050, 44.75.080, 44.75.090, 44.75.100, 44.75.110, 44.75.120, 44.28.161, 35.58.2796, 36.78.070, 41.40.037, 43.10.101, 43.79.270, 43.79.280, 43.88.020, 43.88.030, 43.88.230, 43.105.160, 43.105.190, 44.04.260, 44.28.088, 44.40.025, 46.01.320, 46.01.325, 46.16.705, 46.16.715, 46.16.725, 46.73.010, 47.01.280, 47.04.210, 47.04.220, 47.06.110, 47.06A.020, 47.10.790, 47.10.801, 47.10.802, 47.17.850, 47.26.167, 47.26.170, 47.46.030, 47.46.040, 79A.05.125, 81.80.395, 81.104.110, 82.33.020, 82.70.060, and 82.80.070; reenacting and amending RCW 47.01.101 and 90.03.525; adding new sections to chapter 47.01 RCW; adding a new section to chapter 44.04 RCW; adding a new section to chapter 43.88 RCW; creating new sections; recodifying RCW 44.40.120 and 44.40.025; repealing RCW 44.40.010, 44.40.013, 44.40.015, 44.40.030, 44.40.040, 44.40.090, 44.40.140, 44.40.150, 44.40.161, 53.08.350, 44.40.020, 44.40.070, 44.40.080, 44.40.100, 46.23.040, 47.01.145, 47.05.090, 47.12.360, 47.76.340, 47.74.010, and 47.74.020; providing effective dates; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that it is in the interest of the state to restructure the roles and responsibilities of the state's transportation agencies in order to improve efficiency and accountability. The legislature also finds that continued citizen oversight of the state's transportation system remains an important priority. To achieve these purposes, the legislature intends to

provide direct accountability of the department of transportation to the governor, in his or her role as chief executive officer of state government, by making the secretary of transportation a cabinet-level official. Additionally, it is essential to clearly delineate between the separate and distinct roles and responsibilities of the executive and legislative branches of government. The role of executive is to oversee the implementation of transportation programs, while the legislature reserves to itself the role of policymaking. Finally, consolidating public outreach and auditing of the state's transportation agencies under a single citizen-governed entity, the transportation commission, will provide the public with information about the performance of the transportation system and an avenue for direct participation in its oversight.

Departmental Governance

Sec. 2. RCW 43.17.020 and 1995 1st sp.s. c 2 s 2 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, ~~(and)~~ (14) the secretary of health, and (15) the director of financial institutions.

Such officers, except the ~~((secretary of transportation and the))~~ director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. ~~((The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041.))~~ The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

Sec. 3. RCW 47.01.041 and 1983 1st ex.s. c 53 s 28 are each amended to read as follows:

The executive head of the department of transportation shall be the secretary of transportation, who shall be appointed by the ~~((transportation commission))~~ governor with the advice and consent of the senate, and shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The secretary shall be an ex officio member of the transportation commission without a vote. ~~((The secretary shall be the chief executive officer of the commission and be responsible to it, and shall be guided by policies established by it.))~~ The secretary shall serve ~~((until removed by the commission, but only for incapacity, incompetence, neglect of duty, malfeasance in office, or failure to carry out the commission's policies. Before a motion for dismissal shall be acted on by the commission, the secretary shall be granted a hearing on formal written charges before the full commission. An action by the commission to remove the secretary shall be final))~~ at the pleasure of the governor.

Sec. 4. RCW 47.01.061 and 1987 c 364 s 2 are each amended to read as follows:

(1) The commission shall meet at such times as it deems advisable but at least once every month. It may adopt its own rules and regulations and may establish its own procedure. It shall act collectively in harmony with recorded resolutions or motions adopted by majority vote of at least four members. The commission may appoint an administrative secretary, and shall elect one of its members chairman for a term of one year. The chairman shall be able to vote on all matters before the commission. The commission may from time to time retain planners, consultants, and other technical personnel to advise it in the performance of its duties.

(2) The commission shall submit to each regular session of the legislature held in an odd-numbered year its own budget proposal necessary for the commission's operations separate from that proposed for the department.

(3) Each member of the commission shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the commission, and actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested by a majority vote of the commission or by the secretary of transportation, but in no event shall a commissioner be compensated in any year for more than one hundred twenty days, except the chairman of the commission who may be paid compensation for not more than one hundred fifty days. Service on the commission shall not be considered as service credit for the purposes of any public retirement system.

(4) Each member of the commission shall disclose any actual or potential conflict of interest, if applicable under the circumstance, regarding any commission business.

Sec. 5. RCW 47.01.071 and 1981 c 59 s 2 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 to implement the social, economic, and environmental policies, goals, and objectives of the people of the state, and especially to conserve nonrenewable natural resources including land and energy. 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) Propose a transportation policy for the state(~~(, and after notice and public hearings, submit the proposal to the legislative transportation committee and the senate and house transportation committees by January 1, 1978, for consideration in the next legislative session));~~

(d) Establish a procedure for review and revision of the state transportation policy and for submission of proposed changes to the governor and the legislature;

(e) To integrate the statewide transportation plan with the needs of the elderly and handicapped, and to coordinate federal and state programs directed at assisting local governments to answer such needs;

~~(2) ((To establish the policy of the department to be followed by the secretary on each of the following items:~~

~~(a)) 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;~~

~~((b)) (3) In conjunction with the provisions under section 6 of this act, 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;~~

~~((c) To provide for the administration of grants in aid and other financial assistance to counties and municipal corporations for transportation purposes;~~

~~(d) To provide for the management, sale, and lease of property or property rights owned by the department which are not required for transportation purposes;~~

~~(3)) (4) To ((direct the secretary to)) prepare ((and submit to the commission)) a comprehensive and balanced statewide transportation plan which shall be based on the transportation policy adopted by the governor and the legislature and applicable state and federal laws. ((After public notice and hearings, the commission shall adopt the plan and submit it to the legislative transportation committee and to the house and senate standing committees on transportation before January 1, 1980, for consideration in the 1980 regular legislative session-)) The plan shall be reviewed and revised, and submitted to the governor and the house of representatives and senate standing committees on transportation, prior to each regular session of the legislature during an even-numbered year thereafter. ((A preliminary plan shall be submitted to such committees by January 1, 1979.))~~

The plan shall take into account federal law and regulations relating to the planning, construction, and operation of transportation facilities;

~~((4)) (5) 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;~~

~~((5) To approve and propose to the governor and to the legislature prior to the convening of each regular session during an odd-numbered year a recommended budget for the operation of the department and for carrying out the program of the department for the ensuing biennium. The proposed budget shall separately state the appropriations to be made from the motor vehicle fund for highway purposes in accordance with constitutional limitations and appropriations and expenditures to be made from the general fund, or accounts thereof, and other available sources for other operations and programs of the department;~~

~~(6) To review and authorize all departmental requests for legislation;~~

~~(7))~~ (6) To approve the issuance and sale of all bonds authorized by the legislature for capital construction of state highways, toll facilities, Columbia Basin county roads (for which reimbursement to the motor vehicle fund has been provided), urban arterial projects, and aviation facilities;

~~((8))~~ (7) To adopt such rules, regulations, and policy directives as may be necessary to carry out reasonably and properly those functions expressly vested in the commission by statute;

~~((9) To delegate any of its powers to the secretary of transportation whenever it deems it desirable for the efficient administration of the department and consistent with the purposes of this title;~~

~~(10))~~ (8) 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) 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. 6. A new section is added to chapter 47.01 RCW to read as follows:

(1) The transportation commission shall provide a forum for the development of transportation policy in Washington state. It may recommend to the secretary of transportation, the governor, and the legislature means for obtaining appropriate citizen and professional involvement in all transportation policy formulation and other matters related to the powers and duties of the department. It may further hold hearings and explore ways to improve the mobility of the citizenry. At least every five years, the commission shall convene regional forums to gather citizen input on transportation issues.

(2) Every two years, in coordination with the development of the state biennial budget, the commission shall prepare the statewide multimodal transportation progress report that outlines the transportation priorities of the ensuing biennium. The report must:

(a) Consider the citizen input gathered at the forums;

(b) Be developed with the assistance of state transportation-related agencies and organizations;

(c) Be developed with the input from state, local, and regional jurisdictions, transportation service providers, and key transportation stakeholders;

(d) Be considered by the secretary of transportation and other state transportation-related agencies in preparing proposed agency budgets and executive request legislation;

(e) Be submitted by the commission to the governor by October 1st of each even-numbered year for consideration by the governor.

(3) In fulfilling its responsibilities under this section, the commission may create ad hoc committees or other such committees of limited duration as necessary.

(4) In order to promote a better transportation system, the commission shall offer policy guidance and make recommendations to the governor and the legislature in key issue areas, including but not limited to:

(a) Transportation finance;

(b) Preserving, maintaining, and operating the statewide transportation system;

- (c) Transportation infrastructure needs;
- (d) Promoting best practices for adoption and use by transportation-related agencies and programs;
- (e) Transportation efficiencies that will improve service delivery and/or coordination;
- (f) Improved planning and coordination among transportation agencies and providers; and
- (g) Use of intelligent transportation systems and other technology-based solutions.

Sec. 7. RCW 47.01.101 and 1987 c 505 s 48 and 1987 c 179 s 1 are each reenacted and amended to read as follows:

The secretary shall have the authority and it shall be his or her duty(~~(subject to policy guidance from the commission)~~):

(1) To serve as chief executive officer of the department with full administrative authority to direct all its activities;

(2) To organize the department as he or she may deem necessary to carry out the work and responsibilities of the department effectively;

(3) To designate and establish such transportation district or branch offices as may be necessary or convenient, and to appoint assistants and delegate any powers, duties, and functions to them or any officer or employee of the department as deemed necessary to administer the department efficiently;

(4) To direct and coordinate the programs of the various divisions of the department to assure that they achieve the greatest possible mutual benefit, produce a balanced overall effort, and eliminate unnecessary duplication of activity;

(5) To adopt all department rules that are subject to the adoption procedures contained in the state administrative procedure act, except rules subject to adoption by the commission pursuant to statute;

(6) To maintain and safeguard the official records of the department, including the commission's recorded resolutions and orders;

(7) To provide, under contract or interagency agreement, full staff support to the commission to assist it in carrying out its functions, powers, and duties (~~and to execute the policy established by the commission pursuant to its legislative authority~~);

(8) To execute and implement the biennial operating budget for the operation of the department in accordance with chapter 43.88 RCW and with legislative appropriation (~~and, in such manner as prescribed therein, to make and report to the commission and the chairs of the transportation committees of the senate and house of representatives, including one copy to the staff of each of the committees, deviations from the planned biennial category A and H highway construction programs necessary to adjust to unexpected delays or other unanticipated circumstances~~);

(9) To advise the governor and the legislature with respect to matters under the jurisdiction of the department; and

(10) To exercise all other powers and perform all other duties as are now or hereafter provided by law.

Sec. 8. RCW 47.05.021 and 2002 c 56 s 301 are each amended to read as follows:

(1) The ~~((transportation commission is hereby directed to))~~ department shall conduct periodic analyses of the entire state highway system, report ~~((thereon))~~ to the commission and the chairs of the transportation committees of the senate and house of representatives, ((including one copy to the staff of each of the committees, biennially and based thereon,)) any subsequent recommendations to subdivide, classify, and subclassify ~~((according to their function and importance))~~ all designated state highways ~~((and those added from time to time and periodically review and revise the classifications))~~ into the following three functional classes:

(a) The "principal arterial system" shall consist of a connected network of rural arterial routes with appropriate extensions into and through urban areas, including all routes designated as part of the interstate system, which serve corridor movements having travel characteristics indicative of substantial statewide and interstate travel;

(b) The "minor arterial system" shall, in conjunction with the principal arterial system, form a rural network of arterial routes linking cities and other activity centers which generate long distance travel, and, with appropriate extensions into and through urban areas, form an integrated network providing interstate and interregional service; and

(c) The "collector system" shall consist of routes which primarily serve the more important intercounty, intracounty, and intraurban travel corridors, collect traffic from the system of local access roads and convey it to the arterial system, and on which, regardless of traffic volume, the predominant travel distances are shorter than on arterial routes.

(2) ~~((In making the functional classification))~~ The transportation commission shall adopt ((and) a functional classification of highways. The commission shall consider the recommendations of the department and testimony from the public and local municipalities. The commission shall give consideration to criteria consistent with this section and federal regulations relating to the functional classification of highways, including but not limited to the following:

(a) Urban population centers within and without the state stratified and ranked according to size;

(b) Important traffic generating economic activities, including but not limited to recreation, agriculture, government, business, and industry;

(c) Feasibility of the route, including availability of alternate routes within and without the state;

(d) Directness of travel and distance between points of economic importance;

(e) Length of trips;

(f) Character and volume of traffic;

(g) Preferential consideration for multiple service which shall include public transportation;

(h) Reasonable spacing depending upon population density; and

(i) System continuity.

(3) The transportation commission or the legislature shall designate state highways of statewide significance under RCW 47.06.140. If the commission designates a state highway of statewide significance, it shall submit a list of such facilities for adoption by the legislature. This statewide system shall include at a

minimum interstate highways and other statewide principal arterials that are needed to connect major communities across the state and support the state's economy.

(4) The transportation commission shall designate a freight and goods transportation system. This statewide system shall include state highways, county roads, and city streets. The commission, in cooperation with cities and counties, shall review and make recommendations to the legislature regarding policies governing weight restrictions and road closures which affect the transportation of freight and goods.

Sec. 9. RCW 47.05.030 and 2002 c 5 s 402 are each amended to read as follows:

The transportation commission shall adopt a comprehensive (~~(six-year)~~) ten-year investment program specifying program objectives and performance measures for the preservation and improvement programs defined in this section. The adopted ten-year investment program must be forwarded as a recommendation to the governor and the legislature. In the specification of investment program objectives and performance measures, the transportation commission, in consultation with the Washington state department of transportation, shall define and adopt standards for effective programming and prioritization practices including a needs analysis process. The analysis process must ensure the identification of problems and deficiencies, the evaluation of alternative solutions and trade-offs, and estimations of the costs and benefits of prospective projects. The investment program must be revised (~~(biennially, effective on July 1st of odd-numbered years)~~) based on directions by the office of financial management. The investment program must be based upon the needs identified in the state-owned highway component of the statewide transportation plan as defined in RCW 47.01.071(3).

(1) The preservation program consists of those investments necessary to preserve the existing state highway system and to restore existing safety features, giving consideration to lowest life cycle costing. The preservation program must require use of the most cost-effective pavement surfaces, considering:

- (a) Life-cycle cost analysis;
- (b) Traffic volume;
- (c) Subgrade soil conditions;
- (d) Environmental and weather conditions;
- (e) Materials available; and
- (f) Construction factors.

The comprehensive (~~(six-year)~~) ten-year investment program for preservation must identify projects for two years and an investment plan for the remaining (~~(four)~~) eight years.

(2) The improvement program consists of investments needed to address identified deficiencies on the state highway system to increase mobility, address congestion, and improve safety, support for the economy, and protection of the environment. The (~~(six-year)~~) ten-year investment program for improvements must identify projects for two years and major deficiencies proposed to be addressed in the (~~(six-year)~~) ten-year period giving consideration to relative benefits and life cycle costing. The transportation commission shall give higher priority for correcting identified deficiencies on those facilities classified as

facilities of statewide significance as defined in RCW 47.06.140. Project prioritization must be based primarily upon cost-benefit analysis, where appropriate.

The transportation commission shall approve and present the comprehensive ~~((six-year))~~ ten-year investment program to the governor and the legislature ~~((in support of the biennial budget request under RCW 44.40.070 and 44.40.080))~~ as directed by the office of financial management.

Sec. 10. RCW 47.05.035 and 2002 c 5 s 403 are each amended to read as follows:

(1) The department ~~((and the commission))~~ shall use the transportation demand modeling tools developed under subsection (2) of this section to evaluate investments based on the best mode or improvement, or mix of modes and improvements, to meet current and future long-term demand within a corridor or system for the lowest cost. The end result of these demand modeling tools is to provide a cost-benefit analysis by which the department ~~((and the commission))~~ can determine the relative mobility improvement and congestion relief each mode or improvement under consideration will provide and the relative investment each mode or improvement under consideration will need to achieve that relief.

(2) The department will participate in the refinement, enhancement, and application of existing transportation demand modeling tools to be used to evaluate investments. This participation and use of transportation demand modeling tools will be phased in.

(3) In developing program objectives and performance measures, the ~~((transportation commission))~~ department shall evaluate investment trade-offs between the preservation and improvement programs. In making these investment trade-offs, the ~~((commission))~~ department shall evaluate, using cost-benefit techniques, roadway and bridge maintenance activities as compared to roadway and bridge preservation program activities and adjust those programs accordingly.

(4) The ~~((commission))~~ department shall allocate the estimated revenue between preservation and improvement programs giving primary consideration to the following factors:

(a) The relative needs in each of the programs and the system performance levels that can be achieved by meeting these needs;

(b) The need to provide adequate funding for preservation to protect the state's investment in its existing highway system;

(c) The continuity of future transportation development with those improvements previously programmed; and

(d) The availability of dedicated funds for a specific type of work.

(5) The commission shall review the results of the department's findings and shall consider those findings in the development of the ten-year program.

Sec. 11. RCW 47.05.051 and 2002 c 189 s 3 are each amended to read as follows:

(1) The comprehensive ~~((six-year))~~ ten-year investment program shall be based upon the needs identified in the state-owned highway component of the statewide multimodal transportation plan as defined in RCW 47.01.071~~((3))~~ (4) and priority selection systems that incorporate the following criteria:

(a) Priority programming for the preservation program shall take into account the following, not necessarily in order of importance:

(i) Extending the service life of the existing highway system, including using the most cost-effective pavement surfaces, considering:

- (A) Life-cycle cost analysis;
- (B) Traffic volume;
- (C) Subgrade soil conditions;
- (D) Environmental and weather conditions;
- (E) Materials available; and
- (F) Construction factors;

(ii) Ensuring the structural ability to carry loads imposed upon highways and bridges; and

(iii) Minimizing life cycle costs. The transportation commission in carrying out the provisions of this section may delegate to the department of transportation the authority to select preservation projects to be included in the ~~((six-year))~~ ten-year program.

(b) Priority programming for the improvement program must be based primarily upon the following, not necessarily in order of importance:

- (i) Traffic congestion, delay, and accidents;
- (ii) Location within a heavily traveled transportation corridor;

(iii) Except for projects in cities having a population of less than five thousand persons, synchronization with other potential transportation projects, including transit and multimodal projects, within the heavily traveled corridor; and

(iv) Use of benefit/cost analysis wherever feasible to determine the value of the proposed project.

(c) Priority programming for the improvement program may also take into account:

(i) Support for the state's economy, including job creation and job preservation;

(ii) The cost-effective movement of people and goods;

(iii) Accident and accident risk reduction;

(iv) Protection of the state's natural environment;

(v) Continuity and systematic development of the highway transportation network;

(vi) Consistency with local comprehensive plans developed under chapter 36.70A RCW including the following if they have been included in the comprehensive plan:

(A) Support for development in and revitalization of existing downtowns;

(B) Extent that development implements local comprehensive plans for rural and urban residential and nonresidential densities;

(C) Extent of compact, transit-oriented development for rural and urban residential and nonresidential densities;

(D) Opportunities for multimodal transportation; and

(E) Extent to which the project accommodates planned growth and economic development;

(vii) Consistency with regional transportation plans developed under chapter 47.80 RCW;

(viii) Public views concerning proposed improvements;

- (ix) The conservation of energy resources;
- (x) Feasibility of financing the full proposed improvement;
- (xi) Commitments established in previous legislative sessions;
- (xii) Relative costs and benefits of candidate programs.

(d) Major projects addressing capacity deficiencies which prioritize allowing for preliminary engineering shall be reprioritized during the succeeding biennium, based upon updated project data. Reprioritized projects may be delayed or canceled by the transportation commission if higher priority projects are awaiting funding.

(e) Major project approvals which significantly increase a project's scope or cost from original prioritization estimates shall include a review of the project's estimated revised priority rank and the level of funding provided. Projects may be delayed or canceled by the transportation commission if higher priority projects are awaiting funding.

(2) The commission may depart from the priority programming established under subsection (1) of this section: (a) To the extent that otherwise funds cannot be utilized feasibly within the program; (b) as may be required by a court judgment, legally binding agreement, or state and federal laws and regulations; (c) as may be required to coordinate with federal, local, or other state agency construction projects; (d) to take advantage of some substantial financial benefit that may be available; (e) for continuity of route development; or (f) because of changed financial or physical conditions of an unforeseen or emergent nature. The commission or secretary of transportation shall maintain in its files information sufficient to show the extent to which the commission has departed from the established priority.

(3) The commission shall identify those projects that yield freight mobility benefits or that alleviate the impacts of freight mobility upon affected communities.

Joint Transportation Committee

NEW SECTION. Sec. 12. The joint transportation committee is created. The executive committee of the joint committee consists of the chairs and ranking members of the house and senate transportation committees. The chairs of the house and senate transportation committees shall serve as cochairs of the joint committee. All members of the house and senate standing committees on transportation are eligible for membership of the joint committee and shall serve when appointed by the executive committee.

The joint transportation committee shall review and research transportation programs and issues in order to educate and promote the dissemination of transportation research to state and local government policymakers, including legislators and associated staff. All four members of the executive committee shall approve the annual work plan. Membership of the committee may vary depending on the subject matter of oversight and research projects. The committee may also make recommendations for functional or performance audits to the transportation performance audit board.

The executive committee shall adopt rules and procedures for its operations.

NEW SECTION. Sec. 13. The members of the joint transportation committee will receive allowances while attending meetings of the committee or

subcommittees and while engaged in other authorized business of the committees as provided in RCW 44.04.120. Subject to RCW 44.04.260, all expenses incurred by the committee must be paid upon voucher forms as provided by the office of financial management and signed by the cochairs of the joint committee, or their authorized designees, and the authority of the chair or vice chair to sign vouchers continues until their successors are selected. Vouchers may be drawn upon funds appropriated for the expenses of the committee.

****NEW SECTION. Sec. 14. The joint transportation committee shall conduct a review of state level governance of transportation, with a focus on the appropriate roles of the separate branches of government. The committee shall review the statutory duties, roles, and functions of the transportation commission and the department. In that review the committee shall determine which responsibilities may be transferred to the executive and which may be transferred to the legislature. By December 15, 2005, the joint transportation committee shall make its recommendations to the house and senate transportation committees. The joint transportation committee shall consult with affected agencies and other stakeholders in conducting its analysis. The committee may consult with and retain private professional and technical experts as necessary to ensure an independent review and analysis.***

*Sec. 14 was vetoed. See message at end of chapter.

Transfers

NEW SECTION. Sec. 15. (1)(a) All reports, documents, surveys, books, records, files, papers, or written material relating to the conduct of performance reviews and audits in the possession of the legislative transportation committee must be delivered to the custody of the transportation commission. Any remaining documents, books, records, files, papers, and written materials must be delivered to the custody of the joint transportation committee. All funds, credits, or other assets held by the legislative transportation committee for the purposes of staffing the transportation performance audit board are assigned to the transportation commission. Any remaining funds, credits, or other assets held by the legislative transportation committee are assigned to the joint transportation committee.

(b) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(2) All employees of the legislative transportation committee are transferred to the jurisdiction of the transportation commission for the support of the transportation performance audit board. However, the commission may, if staffing needs warrant, assign the employees to other commission functions.

Transportation Performance Audits

Sec. 16. RCW 44.75.020 and 2003 c 362 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Economy and efficiency audit" has the meaning contained in chapter 44.28 RCW.

(2) "Joint legislative audit and review committee" means the agency created in chapter 44.28 RCW, or its statutory successor.

(3) "Legislative auditor" has the meaning contained in chapter 44.28 RCW.

~~(4) ("Legislative transportation committee" means the agency created in chapter 44.40 RCW, or its statutory successor.~~

~~(5))~~ "Performance audit" has the meaning contained in chapter 44.28 RCW.

~~((6))~~ (5) "Performance review" means an outside evaluation of how a state agency uses its performance measures to assess the outcomes of its legislatively authorized activities.

~~((7))~~ (6) "Program audit" has the meaning contained in chapter 44.28 RCW.

~~((8))~~ (7) "Transportation performance audit board" or "board" means the board created in RCW 44.75.030.

~~((9))~~ (8) "Transportation-related agencies" or "agency" means any state or local agency, board, special purpose district, or commission that receives or generates funding primarily for transportation-related purposes. At a minimum, the department of transportation, the Washington state patrol, the department of licensing, the transportation improvement board or its successor entity, the county road administration board or its successor entity, and the traffic safety commission are considered transportation-related agencies.

Sec. 17. RCW 44.75.030 and 2003 c 362 s 3 are each amended to read as follows:

(1) The transportation performance audit board is created.

(2) The board will consist of four legislative members, ~~((five))~~ three citizen members with transportation-related expertise, two citizen members with performance measurement expertise, one member of the transportation commission, one ex officio nonvoting member, and one at large member. The legislative auditor is the ex officio nonvoting member. The majority and minority leaders of the house and senate transportation committees, or their designees, are the legislative members. The governor shall appoint the at large member to serve for a term of four years. The citizen members must be ~~((nominated by professional associations chosen by the board's legislative members and))~~ appointed by the governor for terms of four years, except that at least half the initial appointments will be for terms of two years. The citizen members may not be currently, or within one year, employed by the Washington state department of transportation. The ((citizen members will consist of)) governor, when appointing the citizen members with transportation-related expertise, may consult with appropriate professional associations and shall consider the following transportation-related experiences:

(a) ~~((One member with expertise in))~~ Construction project planning, including permitting and assuring regulatory compliance;

(b) ~~((One member with expertise in))~~ Construction means and methods and construction management, crafting and implementing environmental mitigation plans, and administration;

(c) ~~((One member with expertise in))~~ Construction engineering services, including construction management, materials testing, materials documentation, contractor payments, inspection, surveying, and project oversight;

(d) ~~((One member with expertise in))~~ Project management, including design estimating, contract packaging, and procurement; and

(e) ~~((One member with expertise in))~~ Transportation planning and congestion management.

(3) The governor may not remove members from the board before the expiration of their terms unless for cause based upon a determination of incapacity, incompetence, neglect of duty, of malfeasance in office by the Thurston county superior court, upon petition and show cause proceedings brought for that purpose in that court and directed to the board member in question.

(4) No member may be appointed for more than three consecutive terms.

Sec. 18. RCW 44.75.040 and 2003 c 362 s 4 are each amended to read as follows:

(1) The board shall meet periodically. It may adopt its own rules and may establish its own procedures. It shall act collectively in harmony with recorded resolutions or motions adopted by a majority vote of the members.

(2) Each member of the transportation performance audit board will be compensated from the general appropriation for the ~~((legislative))~~ transportation ~~((committee))~~ commission in accordance with RCW 43.03.250 and reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the board or that are incurred in the discharge of duties requested by the chair. However, in no event may a board member be compensated in any year for more than one hundred twenty days, except the chair may be compensated for not more than one hundred fifty days. Service on the board does not qualify as a service credit for the purposes of a public retirement system.

(3) The transportation performance audit board shall keep proper records and is subject to audit by the state auditor or other auditing entities.

(4) Staff support to the transportation performance audit board must be provided by the ~~((legislative))~~ transportation ~~((committee))~~ commission, which shall provide professional support for the duties, functions, responsibilities, and activities of the board, including but not limited to information technology systems; data collection, processing, analysis, and reporting; project management; and office space, equipment, and secretarial support. ~~((The legislative evaluation and accountability program will provide data and information technology support consistent with the support currently supplied to existing legislative committees.))~~ Additionally, the commission shall designate, subject to board approval, a staff person to serve as the board administrator. The board administrator serves as an exempt employee and at the pleasure of the board.

(5) Each member of the transportation performance audit board shall disclose any actual or potential conflict of interest, if applicable under the circumstance, regarding all performance reviews and performance audits conducted under this chapter.

Sec. 19. RCW 44.75.050 and 2003 c 362 s 5 are each amended to read as follows:

(1) The transportation performance audit board may review the performance and outcome measures of transportation-related agencies. The purpose of these reviews is to ensure that the legislature has the means to adequately and accurately assess the performance and outcomes of those agencies and departments. Where two or more agencies have shared responsibility for functions or priorities of government, these reviews can also determine whether effective interagency cooperation and collaboration occurs in areas such as program coordination, administrative structures, information systems, and administration of grants and loans.

(2) The board shall, as soon as practicable, conduct a review of the comprehensive ten-year investment program process, including the required criteria, under RCW 47.05.030 and 47.05.051.

(3) In conducting these reviews, the transportation performance audit board may work in consultation with the ~~((legislative transportation committee, the))~~ joint legislative audit and review committee, the office of financial management, and other state agencies.

Sec. 20. RCW 44.75.080 and 2003 c 362 s 8 are each amended to read as follows:

After reviewing the performance or outcome measures and benchmarks of an agency or department, or at any time it so determines, the transportation performance audit board shall ~~((recommend to the executive committee of the legislative transportation committee whether))~~ direct a full performance or functional audit of the agency or department, or a specific program within the agency or department ~~((, is appropriate. Upon the request of the legislative transportation committee or its executive committee, the joint legislative audit and review committee shall add the full performance or functional audit to its biennial performance audit work plan. If the request duplicates or overlaps audits already in the work plan, or was performed under the previous biennial work plan, the executive committees of the legislative transportation committee and the joint legislative audit and review committee shall meet to discuss and resolve the duplication or overlap))~~.

Sec. 21. RCW 44.75.090 and 2003 c 362 s 9 are each amended to read as follows:

~~((4))~~ To the greatest extent possible, ((or when requested by the executive committee of the legislative transportation committee)) and to the extent funds are appropriated, the ((legislative auditor)) board administrator shall, subject to board approval, contract with and consult with private independent professional and technical experts to optimize the independence of the reviews and performance audits. In determining the need to contract with private experts, the ((legislative auditor)) board administrator shall consider the degree of difficulty of the review or audit, the relative cost of contracting for expertise, and the need to maintain auditor independence from the subject agency or program. The board administrator may, subject to board approval, contract with the legislative auditor or state auditor to serve as the contract manager of the reviews and performance audits.

~~((2) After consultation with the executive committee of the legislative transportation committee on the appropriateness of costs, the legislative transportation committee shall reimburse the joint legislative audit and review committee or the legislative auditor for the costs of carrying out any requested performance audits, including the cost of contracts and consultant services.~~

~~(3) The executive committee of the legislative transportation committee must review and approve the methodology for performance audits recommended by the transportation performance audit board.)~~

Sec. 22. RCW 44.75.100 and 2003 c 362 s 10 are each amended to read as follows:

(1) When the board has completed a performance audit, the board shall transmit the preliminary performance audit report to the affected state agency or local government and the office of financial management for comment. The agency or local government and the office of financial management shall provide any response to the board within thirty days after receipt of the preliminary report unless a different time period is approved by the board. The board shall incorporate the response of the agency or local government and the office of financial management into the final performance audit report. The board may also include an addendum with board comments on the management of the audit.

(2) Before releasing the results of a performance audit originally requested by the joint transportation committee to the legislature or the public, the board administrator shall submit the preliminary performance audit report to the joint committee for review and comments solely on the management of the audit. Any comments by the joint committee must be included as a separate addendum to the final performance audit report.

(3) Completed performance audits must be presented to the transportation performance audit board ((and the legislative transportation committee)). Published performance audits must be made available to the public through the ((legislative transportation committee and the joint legislative audit and review committee's)) board's web site and through customary public communications. Final reports must also be transmitted to the affected agency, the director of financial management, and the appropriate policy and fiscal standing committees of the legislature.

Sec. 23. RCW 44.75.110 and 2003 c 362 s 11 are each amended to read as follows:

The ((legislative auditor)) board administrator, or the legislative auditor or state auditor if contracted under RCW 44.75.090, shall determine in writing the scope of any performance audit ((requested)) directed by the ((legislative transportation committee or its executive committee)) transportation performance audit board, subject to the review and approval of the final scope of the audit by the transportation performance audit board((, and the legislative transportation committee or its executive committee)). In doing so, the ((legislative auditor,) board administrator, or legislative auditor or state auditor if contracted under RCW 44.75.090, and the transportation performance audit board((, and the legislative transportation committee or its executive committee)) shall consider inclusion of the following elements in the scope of the audit:

- (1) Identification of potential cost savings in the agency, its programs, and its services;
- (2) Identification and recognition of best practices;
- (3) Identification of funding to the agency, to programs, and to services that can be eliminated or reduced;
- (4) Identification of programs and services that can be eliminated, reduced, or transferred to the private sector;
- (5) Analysis of gaps and overlaps in programs and services and recommendations for improving, dropping, blending, or separating functions to correct gaps or overlaps;
- (6) Analysis and recommendations for pooling information technology systems;
- (7) Analysis of the roles and functions of the agency, its programs, and its services and their compliance with statutory authority and recommendations for eliminating or changing those roles and functions and ensuring compliance with statutory authority;
- (8) Recommendations for eliminating or changing statutes, rules, and policy directives as may be necessary to ensure that the agency carry out reasonably and properly those functions expressly vested in the department by statute; and
- (9) Verification of the reliability and validity of department performance data, self-assessments, and performance measurement systems as required under RCW 43.88.090.

Sec. 24. RCW 44.75.120 and 2003 c 362 s 12 are each amended to read as follows:

When conducting a full performance audit of an agency or department, or a specific program within an agency or department, or multiple agencies, in accordance with RCW 44.75.110, the (~~legislative auditor~~) board administrator shall solicit input from appropriate industry representatives or experts. The audit report must make recommendations regarding the continuation, abolition, consolidation, or reorganization of each affected agency, department, or program. The audit report must identify opportunities to develop government partnerships, and eliminate program redundancies that will result in increased quality, effectiveness, and efficiency of state agencies.

Sec. 25. RCW 44.28.161 and 2003 c 362 s 13 are each amended to read as follows:

In addition to any other audits developed or included in the audit work plan under this chapter, the legislative auditor shall manage transportation-related performance audits (~~directed by the executive committee of the legislative transportation committee under RCW 44.75.080. If directed to perform or contract for audit services under RCW 44.75.080, the legislative auditor or joint legislative audit and review committee will receive from the legislative transportation committee an interagency reimbursement equal to the cost of the contract or audit services~~) if contracted to do so under RCW 44.75.090.

References to LTC

Sec. 101. RCW 35.58.2796 and 1989 c 396 s 2 are each amended to read as follows:

The department of transportation shall develop an annual report summarizing the status of public transportation systems in the state. By September 1st of each year, copies of the report shall be submitted to the ~~((legislative transportation committee))~~ transportation committees of the legislature and to each municipality, as defined in RCW 35.58.272, and to individual members of the municipality's legislative authority. ~~((The department shall prepare and submit a preliminary report by December 1, 1989.))~~

To assist the department with preparation of the report, each municipality shall file a system report by April 1st of each year with the state department of transportation identifying its public transportation services for the previous calendar year and its objectives for improving the efficiency and effectiveness of those services. The system report shall address those items required for each public transportation system in the department's report.

The department report shall describe individual public transportation systems, including contracted transportation services and dial-a-ride services, and include a statewide summary of public transportation issues and data. The descriptions shall include the following elements and such other elements as the department deems appropriate after consultation with the municipalities and the ~~((legislative transportation committee))~~ transportation committees of the legislature:

- (1) Equipment and facilities, including vehicle replacement standards;
- (2) Services and service standards;
- (3) Revenues, expenses, and ending balances, by fund source;
- (4) Policy issues and system improvement objectives, including community participation in development of those objectives and how those objectives address statewide transportation priorities;
- (5) Operating indicators applied to public transportation services, revenues, and expenses. Operating indicators shall include operating cost per passenger trip, operating cost per revenue vehicle service hour, passenger trips per revenue service hour, passenger trips per vehicle service mile, vehicle service hours per employee, and farebox revenue as a percent of operating costs.

Sec. 102. RCW 36.78.070 and 1999 c 269 s 1 are each amended to read as follows:

The county road administration board shall:

- (1) Establish by rule, standards of good practice for the administration of county roads and the efficient movement of people and goods over county roads;
- (2) Establish reporting requirements for counties with respect to the standards of good practice adopted by the board;
- (3) Receive and review reports from counties and reports from its executive director to determine compliance with legislative directives and the standards of good practice adopted by the board;
- (4) Advise counties on issues relating to county roads and the safe and efficient movement of people and goods over county roads and assist counties in developing uniform and efficient transportation-related information technology resources;
- (5) Report annually before the fifteenth day of January, and throughout the year as appropriate, to the state department of transportation and to the chairs of the ~~((legislative transportation committee and the))~~ house and senate transportation committees, and to other entities as appropriate on the status of

county road administration in each county, including one copy to the staff of each of the committees. The annual report shall contain recommendations for improving administration of the county road programs;

(6) Administer the rural arterial program established by chapter 36.79 RCW and the program funded by the county arterial preservation account established by RCW 46.68.090, as well as any other programs provided for in law.

Sec. 103. RCW 41.40.037 and 2004 c 242 s 63 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) Except as provided in (b) of this subsection, a retiree from plan 1 who enters employment with an employer at least one calendar month after his or her accrual date may continue to receive pension payments while engaged in such service for up to eight hundred sixty-seven hours of service in a calendar year without a reduction of pension.

(b) A retiree from plan 1 who enters employment with an employer at least three calendar months after his or her accrual date and:

(i) Is hired into a position for which the employer has documented a justifiable need to hire a retiree into the position;

(ii) Is hired through the established process for the position with the approval of: A school board for a school district; the chief executive officer of a state agency employer; the secretary of the senate for the senate; the chief clerk of the house of representatives for the house of representatives; the secretary of the senate and the chief clerk of the house of representatives jointly for the joint legislative audit and review committee, (~~the legislative transportation committee,~~) the joint committee on pension policy, the legislative evaluation and accountability program, the legislative systems committee, and the statute law committee; or according to rules adopted for the rehiring of retired plan 1 members for a local government employer;

(iii) The employer retains records of the procedures followed and decisions made in hiring the retiree, and provides those records in the event of an audit; and

(iv) The employee has not already rendered a cumulative total of more than one thousand nine hundred hours of service while in receipt of pension payments beyond an annual threshold of eight hundred sixty-seven hours; shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a calendar year. The one thousand nine hundred hour cumulative total under this subsection applies prospectively to those retiring after July 27, 2003, and retroactively to those who retired prior to July 27, 2003, and shall be calculated from the date of retirement.

(c) When a plan 1 member renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that calendar year.

(d) A retiree from plan 2 or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours in a calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

Sec. 104. RCW 43.10.101 and 1995 2nd sp.s. c 14 s 527 are each amended to read as follows:

The attorney general shall prepare annually a report to the ~~((legislative transportation committee))~~ transportation committees of the legislature, the transportation commission, and the transportation performance audit board comprising a comprehensive summary of all cases involving tort claims against the department of transportation involving highways which were concluded and closed in the previous calendar year. The report shall include for each case closed:

- (1) A summary of the factual background of the case;
- (2) Identification of the attorneys representing the state and the opposing parties;
- (3) A synopsis of the legal theories asserted and the defenses presented;
- (4) Whether the case was tried, settled, or dismissed, and in whose favor;
- (5) The approximate number of attorney hours expended by the state on the case, together with the corresponding dollar amount billed therefore; and
- (6) Such other matters relating to the case as the attorney general deems relevant or appropriate, especially including any comments or recommendations for changes in statute law or agency practice that might effectively reduce the exposure of the state to such tort claims.

Sec. 105. RCW 43.79.270 and 1998 c 177 s 1 are each amended to read as follows:

(1) Whenever any money, from the federal government, or from other sources, which was not anticipated in the budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of any department, agency, board, or commission through which such expenditure shall be made is to submit to the governor a statement which may be in the form of a request for an allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended: PROVIDED, That no expenditure shall be made in excess of the actual amount received, and no money shall be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated fund or account in excess of appropriations provided by law which is based on the receipt of unanticipated revenues shall be submitted to the joint legislative audit and review committee and also to the standing committees on ways and means of the house and senate if the legislature is in session at the same time as it is transmitted to the governor.

(2) Notwithstanding subsection (1) of this section, whenever money from any source that was not anticipated in the transportation budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of a department, agency, board, or commission through which the expenditure must be made shall submit to the governor a statement, which may be in the form of a request for an allotment amendment, setting forth the facts constituting the need for the expenditure and the estimated amount to be expended. However, no expenditure may be made in excess of the actual amount received, and no money may be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated transportation fund or account in excess of appropriations provided by law that is based on the receipt of unanticipated revenues must be submitted, at a minimum, to the standing committees on transportation of the house and senate ~~((, if the legislature is in session,))~~ at the same time as it is transmitted to the governor. ~~((During the legislative interim, any such proposal must be submitted to the legislative transportation committee.))~~

Sec. 106. RCW 43.79.280 and 1998 c 177 s 2 are each amended to read as follows:

(1) If the governor approves such estimate in whole or part, he shall endorse on each copy of the statement his approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval and a statement of the amount approved for expenditure shall be transmitted simultaneously to the joint legislative audit and review committee and also to the standing committee on ways and means of the house and senate of all executive approvals of proposals to expend money in excess of appropriations provided by law.

(2) If the governor approves an estimate with transportation funding implications, in whole or part, he shall endorse on each copy of the statement his approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department,

agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval of a proposal to expend transportation money in excess of appropriations provided by law and a statement of the amount approved for expenditure must be transmitted simultaneously to the standing committees on transportation of the house and senate. ~~((During the legislative interim, all estimate approvals endorsed by the governor along with a statement of the amount approved in the form of an allotment amendment must be transmitted simultaneously to the legislative transportation committee.))~~

Sec. 107. RCW 43.88.020 and 2000 2nd sp.s. c 4 s 11 are each amended to read as follows:

(1) "Budget" means a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures.

(2) "Budget document" means a formal statement, either written or provided on any electronic media or both, offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" means the official appointed by the governor to serve at the governor's pleasure and to whom the governor may delegate necessary authority to carry out the governor's duties as provided in this chapter. The director of financial management shall be head of the office of financial management which shall be in the office of the governor.

(4) "Agency" means and includes every state office, officer, each institution, whether educational, correctional, or other, and every department, division, board, and commission, except as otherwise provided in this chapter.

(5) "Public funds", for purposes of this chapter, means all moneys, including cash, checks, bills, notes, drafts, stocks, and bonds, whether held in trust, for operating purposes, or for capital purposes, and collected or disbursed under law, whether or not such funds are otherwise subject to legislative appropriation, including funds maintained outside the state treasury.

(6) "Regulations" means the policies, standards, and requirements, stated in writing, designed to carry out the purposes of this chapter, as issued by the governor or the governor's designated agent, and which shall have the force and effect of law.

(7) "Ensuing biennium" means the fiscal biennium beginning on July 1st of the same year in which a regular session of the legislature is held during an odd-numbered year pursuant to Article II, section 12 of the Constitution and which biennium next succeeds the current biennium.

(8) "Dedicated fund" means a fund in the state treasury, or a separate account or fund in the general fund in the state treasury, that by law is dedicated, appropriated, or set aside for a limited object or purpose; but "dedicated fund" does not include a revolving fund or a trust fund.

(9) "Revolving fund" means a fund in the state treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(10) "Trust fund" means a fund in the state treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise, or bequest that limits the use of the fund to designated objects or purposes.

(11) "Administrative expenses" means expenditures for: (a) Salaries, wages, and related costs of personnel and (b) operations and maintenance including but not limited to costs of supplies, materials, services, and equipment.

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

(13) "Lapse" means the termination of authority to expend an appropriation.

(14) "Legislative fiscal committees" means the joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means and transportation committees of the senate and house of representatives(~~(, and, where appropriate, the legislative transportation committee)~~).

(15) "Fiscal period" means the period for which an appropriation is made as specified within the act making the appropriation.

(16) "Primary budget driver" means the primary determinant of a budget level, other than a price variable, which causes or is associated with the major expenditure of an agency or budget unit within an agency, such as a caseload, enrollment, workload, or population statistic.

(17) "State tax revenue limit" means the limitation created by chapter 43.135 RCW.

(18) "General state revenues" means the revenues defined by Article VIII, section 1(c) of the state Constitution.

(19) "Annual growth rate in real personal income" means the estimated percentage growth in personal income for the state during the current fiscal year, expressed in constant value dollars, as published by the office of financial management or its successor agency.

(20) "Estimated revenues" means estimates of revenue in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast (~~(including estimates of revenues to support financial plans under RCW 44.40.070)~~), that are prepared by the office of financial management in consultation with the transportation revenue forecast council.

(21) "Estimated receipts" means the estimated receipt of cash in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast.

(22) "State budgeting, accounting, and reporting system" means a system that gathers, maintains, and communicates fiscal information. The system links fiscal information beginning with development of agency budget requests through adoption of legislative appropriations to tracking actual receipts and expenditures against approved plans.

(23) "Allotment of appropriation" means the agency's statement of proposed expenditures, the director of financial management's review of that statement, and the placement of the approved statement into the state budgeting, accounting, and reporting system.

(24) "Statement of proposed expenditures" means a plan prepared by each agency that breaks each appropriation out into monthly detail representing the best estimate of how the appropriation will be expended.

(25) "Undesignated fund balance (or deficit)" means unreserved and undesignated current assets or other resources available for expenditure over and above any current liabilities which are expected to be incurred by the close of the fiscal period.

(26) "Internal audit" means an independent appraisal activity within an agency for the review of operations as a service to management, including a systematic examination of accounting and fiscal controls to assure that human and material resources are guarded against waste, loss, or misuse; and that reliable data are gathered, maintained, and fairly disclosed in a written report of the audit findings.

(27) "Performance verification" means an analysis that (a) verifies the accuracy of data used by state agencies in quantifying intended results and measuring performance toward those results, and (b) verifies whether or not the reported results were achieved.

(28) "Performance audit" has the same meaning as it is defined in RCW 44.28.005.

Sec. 108. RCW 43.88.030 and 2004 c 276 s 908 are each amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. ~~((The director shall provide agencies and committees that are required under RCW 44.40.070 to develop comprehensive six-year program and financial plans with a complete set of instructions for submitting these program and financial plans at the same time that instructions for submitting other budget requests are provided.))~~ The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and programs for which the forecast councils do not prepare an official forecast ~~((, including those revenues anticipated to support the six-year programs and financial plans under RCW 44.40.070. In estimating revenues to support financial plans under RCW 44.40.070, the office of financial management shall rely on information and advice from the transportation revenue forecast~~

ouncil)). Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources (~~and at existing rates for those agencies required to submit six-year program and financial plans under RCW 44.40.070~~). Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, and those anticipated for the ensuing biennium (~~and those anticipated for the ensuing six-year period to support the six-year programs and financial plans required under RCW 44.40.070~~);

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity, and agency. However, documents submitted for the 2005-07 biennial budget request need not show expenditures by activity;

(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working

capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

- (a) Interest, amortization and redemption charges on the state debt;
 - (b) Payments of all reliefs, judgments, and claims;
 - (c) Other statutory expenditures;
 - (d) Expenditures incident to the operation for each agency;
 - (e) Revenues derived from agency operations;
 - (f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium (~~(--as well as those required to support the six year programs and financial plans required under RCW 44.40.070))~~);
 - (g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;
 - (h) Common school expenditures on a fiscal-year basis;
 - (i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and
 - (j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.
- (3) A separate capital budget document or schedule shall be submitted that will contain the following:
- (a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;
 - (b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;
 - (c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;
 - (d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan shall include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;
 - (e) A statement of the reason or purpose for a project;
 - (f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;
 - (g) A statement about the proposed site, size, and estimated life of the project, if applicable;
 - (h) Estimated total project cost;

(i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(j) Estimated total project cost for each phase of the project as defined by the office of financial management;

(k) Estimated ensuing biennium costs;

(l) Estimated costs beyond the ensuing biennium;

(m) Estimated construction start and completion dates;

(n) Source and type of funds proposed;

(o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(q) Such other information bearing upon capital projects as the governor deems to be useful;

(r) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;

(s) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (3), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, (~~legislative transportation committee~~) legislative evaluation and accountability program committee, and office of financial management.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

Sec. 109. RCW 43.88.230 and 1996 c 288 s 40 are each amended to read as follows:

For the purposes of this chapter, the statute law committee, the joint legislative audit and review committee, the ~~((legislative))~~ joint transportation committee, the legislative evaluation and accountability program committee, the office of state actuary, and all legislative standing committees of both houses shall be deemed a part of the legislative branch of state government.

Sec. 110. RCW 43.105.160 and 1999 c 80 s 9 are each amended to read as follows:

(1) The department shall prepare a state strategic information technology plan which shall establish a statewide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information, and services. The plan shall be developed in accordance with the standards and policies established by the board and shall be submitted to the board for review, modification as necessary, and approval. The department shall seek the advice of the board in the development of this plan.

The plan approved under this section shall be updated as necessary and submitted to the governor~~((;))~~ and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives~~((; and, during the legislative session, to the chairs and ranking minority members of the transportation committees of the senate and the house of representatives. During the legislative interim, the approved plan must be submitted to the legislative transportation committee, instead of the standing transportation committees))~~.

(2) The department shall prepare a biennial state performance report on information technology based on agency performance reports required under RCW 43.105.170 and other information deemed appropriate by the department. The report shall include, but not be limited to:

(a) An analysis, based upon agency portfolios, of the state's information technology infrastructure, including its value, condition, and capacity;

(b) An evaluation of performance relating to information technology;

(c) An assessment of progress made toward implementing the state strategic information technology plan, including progress toward electronic access to public information and enabling citizens to have two-way access to public records, information, and services;

(d) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under RCW 43.105.190;

(e) Identification of benefits, cost avoidance, and cost savings generated by major information technology projects developed under RCW 43.105.190; and

(f) An inventory of state information services, equipment, and proprietary software.

Copies of the report shall be distributed biennially to the governor~~((;))~~ and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives~~((; and, during the legislative session, the chairs and ranking minority members of the transportation committees of the senate and the house of representatives. During the legislative interim, the report must be submitted to the legislative transportation committee, instead of the standing transportation committees))~~.

Sec. 111. RCW 43.105.190 and 1999 c 80 s 12 are each amended to read as follows:

(1) The department, with the approval of the board, shall establish standards and policies governing the planning, implementation, and evaluation of major information technology projects, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The standards and policies shall:

(a) Establish criteria to identify projects which are subject to this section. Such criteria shall include, but not be limited to, significant anticipated cost, complexity, or statewide significance of the project; and

(b) Establish a model process and procedures which agencies shall follow in developing and implementing projects within their information technology portfolios. Agencies may propose, for approval by the department, a process and procedures unique to the agency. The department may accept or require modification of such agency proposals or the department may reject such agency proposals and require use of the model process and procedures established under this subsection. Any process and procedures developed under this subsection shall require (i) distinct and identifiable phases upon which funding may be based, (ii) user validation of products through system demonstrations and testing of prototypes and deliverables, and (iii) other elements identified by the board.

The director may terminate a major project if the director determines that the project is not meeting or is not expected to meet anticipated performance standards.

(2) The office of financial management shall establish policies and standards consistent with portfolio-based information technology management to govern the funding of projects developed under this section. The policies and standards shall provide for:

(a) Funding of a project under terms and conditions mutually agreed to by the director, the director of financial management, and the head of the agency proposing the project. However, the office of financial management may require incremental funding of a project on a phase-by-phase basis whereby funds for a given phase of a project may be released only when the office of financial management determines, with the advice of the department, that the previous phase is satisfactorily completed;

(b) Acceptance testing of products to assure that products perform satisfactorily before they are accepted and final payment is made; and

(c) Other elements deemed necessary by the office of financial management.

(3) The department shall evaluate projects based on the demonstrated business needs and benefits; cost; technology scope and feasibility; impact on the agency's information technology portfolio and on the statewide infrastructure; and final project implementation plan based upon available funding.

Copies of project evaluations conducted under this subsection shall be submitted to the office of financial management and the chairs, ranking minority members, and staff coordinators of the appropriations committees of the senate and house of representatives.

If there are projects that receive funding from a transportation fund or account, copies of those projects' evaluations conducted under this subsection must be submitted ~~((during the legislative session;))~~ to the chairs and ranking minority members of the transportation committees of the senate and the house of representatives. ~~((During the legislative interim, the project evaluations must be submitted to the legislative transportation committee.))~~

Sec. 112. RCW 44.04.260 and 2003 c 295 s 12 are each amended to read as follows:

The joint legislative audit and review committee, the ~~((legislative))~~ joint transportation committee, the select committee on pension policy, the legislative evaluation and accountability program committee, and the joint legislative systems committee are subject to such operational policies, procedures, and oversight as are deemed necessary by the facilities and operations committee of the senate and the executive rules committee of the house of representatives to ensure operational adequacy of the agencies of the legislative branch. As used in this section, "operational policies, procedures, and oversight" includes the development process of biennial budgets, contracting procedures, personnel policies, and compensation plans, selection of a chief administrator, facilities, and expenditures. This section does not grant oversight authority to the facilities and operations committee of the senate over any standing committee of the house of representatives or oversight authority to the executive rules committee of the house of representatives over any standing committee of the senate.

Sec. 113. RCW 44.28.088 and 2003 c 362 s 14 are each amended to read as follows:

(1) When the legislative auditor has completed a performance audit authorized in the performance audit work plan, the legislative auditor shall transmit the preliminary performance audit report to the affected state agency or local government and the office of financial management for comment. The agency or local government and the office of financial management shall provide any response to the legislative auditor within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the joint committee. The legislative auditor shall incorporate the response of the agency or local government and the office of financial management into the final performance audit report.

(2) Except as provided in subsection (3) of this section, before releasing the results of a performance audit to the legislature or the public, the legislative auditor shall submit the preliminary performance audit report to the joint committee for its review, comments, and final recommendations. Any comments by the joint committee must be included as a separate addendum to the final performance audit report. Upon consideration and incorporation of the review, comments, and recommendations of the joint committee, the legislative auditor shall transmit the final performance audit report to the affected agency or local government, the director of financial management, the leadership of the senate and the house of representatives, and the appropriate standing committees of the house of representatives and the senate and shall publish the results and make the report available to the public. For purposes of this section, "leadership of the senate and the house of representatives" means the speaker of the house, the majority leaders of the senate and the house of representatives, the minority

leaders of the senate and the house of representatives, the caucus chairs of both major political parties of the senate and the house of representatives, and the floor leaders of both major political parties of the senate and the house of representatives.

(3) If contracted to manage a transportation-related performance audit under RCW 44.75.090, before releasing the results of a performance audit originally ((requested)) directed by the ((executive committee of the legislative transportation committee)) transportation performance audit board to the legislature or the public, the legislative auditor shall submit the preliminary performance audit report to the ((executive committee of the joint committee and the executive committee of the legislative transportation committee)) transportation performance audit board for review and comments solely on the management of the audit. Any comments by the ((executive committee of the joint committee and executive committee of the legislative transportation committee)) transportation performance audit board must be included as a separate addendum to the final performance audit report. Upon consideration and incorporation of the review and comments of the ((executive committee of the joint committee and executive committee of the legislative transportation committee)) transportation performance audit board, the legislative auditor shall transmit the final performance audit report to the affected agency or local government, the director of financial management, the leadership of the senate and the house of representatives, and the appropriate standing committees of the house of representatives and the senate and shall publish the results and make the report available to the public.

Sec. 114. RCW 44.40.025 and 1996 c 288 s 49 are each amended to read as follows:

~~((In addition to the powers and duties authorized in RCW 44.40.020, the committee and))~~ The standing committees on transportation of the house and senate shall, in coordination with the joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives, ascertain, study, ((and/or)) and analyze all available facts and matters relating or pertaining to sources of revenue, appropriations, expenditures, and financial condition of the motor vehicle fund and accounts thereof, the highway safety fund, and all other funds or accounts related to transportation programs of the state.

The joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives shall coordinate their activities with the ~~((legislative))~~ transportation committees of the legislature in carrying out the committees' powers and duties under chapter 43.88 RCW in matters relating to the transportation programs of the state.

Sec. 115. RCW 46.01.320 and 1996 c 315 s 2 are each amended to read as follows:

The title and registration advisory committee is created within the department. The committee consists of the director or a designee, who shall serve as chair, the assistant director for vehicle services, the administrator of title and registration services, two members from each of the house and senate

transportation committees, two county auditors nominated by the Washington association of county officials, and two representatives of subagents nominated by an association of vehicle subagents. The committee shall meet at least twice a year, and may meet as often as is necessary.

The committee's purpose is to foster communication between the legislature, the department, county auditors, and subagents. The committee shall make recommendations (~~(when requested by the legislative transportation committee, or on its own initiative,)~~) about revisions to fee structures, implications of fee revisions on cost sharing, and the development of standard contracts provided for in RCW 46.01.140(3).

Sec. 116. RCW 46.01.325 and 1996 c 315 s 3 are each amended to read as follows:

(1) The director shall prepare, with the advice of the title and registration advisory committee, an annual comprehensive analysis and evaluation of agent and subagent fees. The director shall make recommendations for agent and subagent fee revisions approved by the title and registration advisory committee to the (~~(legislative)~~) senate and house transportation committees by January 1st of every third year starting with 1996. Fee revision recommendations may be made more frequently when justified by the annual analysis and evaluation, and requested by the title and registration advisory committee.

(2) The annual comprehensive analysis and evaluation must consider, but is not limited to:

(a) Unique and significant financial, legislative, or other relevant developments that may impact fees;

(b) Current funding for ongoing operating and maintenance automation project costs affecting revenue collection and service delivery;

(c) Future system requirements including an appropriate sharing of costs between the department, agents, and subagents;

(d) Beneficial mix of customer service delivery options based on a fee structure commensurate with quality performance standards;

(e) Appropriate indices projecting state and national growth in business and economic conditions prepared by the United States department of commerce, the department of revenue, and the revenue forecast council for the state of Washington.

Sec. 117. RCW 46.16.705 and 2003 c 196 s 101 are each amended to read as follows:

(1) The special license plate review board is created.

(2) The board will consist of seven members: One member appointed by the governor and who will serve as chair of the board; four members of the legislature, one from each caucus of the house of representatives and the senate; a department of licensing representative appointed by the director; and a Washington state patrol representative appointed by the chief.

(3) Members shall serve terms of four years, except that four of the members initially appointed will be appointed for terms of two years. No member may be appointed for more than three consecutive terms.

(4) The (~~(legislative transportation committee)~~) respective appointing authority may remove members from the board before the expiration of their terms only for cause based upon a determination of incapacity, incompetence,

neglect of duty, or malfeasance in office as ordered by the Thurston county superior court, upon petition and show cause proceedings brought for that purpose in that court and directed to the board member in question.

Sec. 118. RCW 46.16.715 and 2003 c 196 s 102 are each amended to read as follows:

(1) The board shall meet periodically at the call of the chair, but must meet at least one time each year within ninety days before an upcoming regular session of the legislature. The board may adopt its own rules and may establish its own procedures. It shall act collectively in harmony with recorded resolutions or motions adopted by a majority vote of the members, and it must have a quorum present to take a vote on a special license plate application.

(2) The board will be compensated from the general appropriation for the ~~((legislative transportation committee))~~ department of licensing in accordance with RCW 43.03.250. Each board member will be compensated in accordance with RCW 43.03.250 and reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the board or that are incurred in the discharge of duties requested by the chair. However, in no event may a board member be compensated in any year for more than one hundred twenty days, except the chair may be compensated for not more than one hundred fifty days. Service on the board does not qualify as a service credit for the purposes of a public retirement system.

(3) The board shall keep proper records and is subject to audit by the state auditor or other auditing entities.

(4) The department of licensing shall provide administrative support to the board, which must include at least the following:

- (a) Provide general staffing to meet the administrative needs of the board;
- (b) Report to the board on the reimbursement status of any new special license plate series for which the state had to pay the start-up costs;
- (c) Process special license plate applications and confirm that the sponsoring organization has submitted all required documentation. If an incomplete application is received, the department must return it to the sponsoring organization;
- (d) Compile the annual financial reports submitted by sponsoring organizations with active special license plate series and present those reports to the board for review and approval.

~~((5) The legislative transportation committee shall provide general oversight of the board, which must include at least the following:~~

- ~~(a) Process and approve board member compensation requests;~~
- ~~(b) Review the annual financial reports submitted to the board by sponsoring organizations;~~
- ~~(c) Review annually the list of the board's approved and rejected special license plate proposals submitted by sponsoring organizations.)~~

Sec. 119. RCW 46.16.725 and 2003 c 196 s 103 are each amended to read as follows:

(1) The creation of the board does not in any way preclude the authority of the legislature to independently propose and enact special license plate legislation.

(2) The board must review and either approve or reject special license plate applications submitted by sponsoring organizations.

(3) Duties of the board include but are not limited to the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the ~~((legislative))~~ senate and house transportation committees;

(b) Report annually to the ~~((legislative))~~ senate and house transportation committees on the special license plate applications that were considered by the board;

(c) Issue approval and rejection notification letters to sponsoring organizations, the department, the chairs of the senate and house of representatives transportation committees, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application;

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The board may submit a recommendation to discontinue a special plate series to the chairs of the senate and house of representatives transportation committees.

Sec. 120. RCW 46.73.010 and 1985 c 333 s 1 are each amended to read as follows:

The Washington state patrol may adopt rules establishing standards for qualifications and hours of service of drivers for private carriers as defined by RCW 81.80.010(6). Such standards shall correlate with and, as far as reasonable, conform to the regulations contained in Title 49 C.F.R., Chapter 3, Subchapter B, Parts 391 and 395, on July 28, 1985. ~~((At least thirty days before filing notice of the proposed rules with the code reviser, the state patrol shall submit them to the legislative transportation committee for review.))~~

Sec. 121. RCW 47.01.280 and 1999 c 94 s 10 are each amended to read as follows:

(1) Upon receiving an application for improvements to an existing state highway or highways pursuant to RCW 43.160.074 from the community economic revitalization board, the transportation commission shall, in a timely manner, determine whether or not the proposed state highway improvements:

(a) Meet the safety and design criteria of the department of transportation;

(b) Will impair the operational integrity of the existing highway system;

(c) Will affect any other improvements planned by the department; and

(d) Will be consistent with its policies developed pursuant to RCW 47.01.071.

(2) Upon completion of its determination of the factors contained in subsection (1) of this section and any other factors it deems pertinent, the transportation commission shall forward its approval, as submitted or amended or disapproval of the proposed improvements to the board, along with any recommendation it may wish to make concerning the desirability and feasibility of the proposed development. If the transportation commission disapproves any proposed improvements, it shall specify its reasons for disapproval.

(3) Upon notification from the board of an application's approval pursuant to RCW 43.160.074, the transportation commission shall direct the department

of transportation to carry out the improvements in coordination with the applicant.

~~((4) The transportation commission shall notify the legislative transportation committee of all state highway improvements to be carried out pursuant to RCW 43.160.074 and this section.))~~

Sec. 122. RCW 47.04.210 and 2001 2nd sp.s. c 14 s 601 are each amended to read as follows:

Federal funds that are administered by the department of transportation and are passed through to municipal corporations or political subdivisions of the state and moneys that are received as total reimbursement for goods, services, or projects constructed by the department of transportation are removed from the transportation budget. To process and account for these expenditures a new treasury trust account is created to be used for all department of transportation one hundred percent federal and local reimbursable transportation expenditures. This new account is nonbudgeted and nonappropriated. At the same time, federal and private local appropriations and full-time equivalents in subprograms R2, R3, T6, Y6, and Z2 processed through this new account are removed from the department of transportation's 1997-99 budget.

The department of transportation may make expenditures from the account before receiving federal and local reimbursements. However, at the end of each biennium, the account must maintain a zero or positive cash balance. In the twenty-fourth month of each biennium the department of transportation shall calculate and transfer sufficient cash from either the motor vehicle fund or the multimodal transportation account to cover any negative cash balances. The amount transferred is calculated based on expenditures from each fund. In addition, any interest charges accruing to the new account must be distributed to the motor vehicle fund and the multimodal transportation account.

The department of transportation shall provide an annual report to the ~~((legislative))~~ senate and house transportation committees and the office of financial management on expenditures and full-time equivalents processed through the new account. The report must also include recommendations for process changes, if needed.

Sec. 123. RCW 47.04.220 and 2001 2nd sp.s. c 14 s 602 are each amended to read as follows:

(1) The miscellaneous transportation programs account is created in the custody of the state treasurer.

(2) Moneys from the account may be used only for the costs of:

(a) Miscellaneous transportation services provided by the department that are reimbursed by other public and private entities;

(b) Local transportation projects for which the department is a conduit for federal reimbursement to a municipal corporation or political subdivision; or

(c) Other reimbursable activities as recommended by the ~~((legislative))~~ senate and house transportation committees and approved by the office of financial management.

(3) Moneys received as reimbursement for expenditures under subsection (2) of this section must be deposited into the account.

(4) No appropriation is required for expenditures from this account. This fund is not subject to allotment procedures provided under chapter 43.88 RCW.

(5) Only the secretary of transportation or the secretary's designee may authorize expenditures from the account.

(6) It is the intent of the legislature that this account maintain a zero or positive cash balance at the end of each biennium. Toward this purpose the department may make expenditures from the account before receiving reimbursements under subsection (2) of this section. Before the end of the biennium, the department shall transfer sufficient cash to cover any negative cash balances from the motor vehicle fund and the multimodal transportation account to the miscellaneous transportation programs account for unrecovered reimbursements. The department shall calculate the distribution of this transfer based on expenditures. In the ensuing biennium the department shall transfer the reimbursements received in the miscellaneous transportation programs account back to the motor vehicle fund and the multimodal transportation account to the extent of the cash transferred at biennium end. The department shall also distribute any interest charges accruing to the miscellaneous transportation programs account to the motor vehicle fund and the multimodal transportation account. Adjustments for any indirect cost recoveries may also be made at this time.

(7) The department shall provide an annual report to the ~~((legislative)) senate and house~~ transportation committees and the office of financial management on the expenditures and full-time equivalents processed through the miscellaneous transportation programs account. The report must also include recommendations for changes to the process, if needed.

Sec. 124. RCW 47.06.110 and 1996 c 186 s 512 are each amended to read as follows:

The state-interest component of the statewide multimodal transportation plan shall include a state public transportation plan that:

(1) Articulates the state vision of an interest in public transportation and provides quantifiable objectives, including benefits indicators;

(2) Identifies the goals for public transit and the roles of federal, state, regional, and local entities in achieving those goals;

(3) Recommends mechanisms for coordinating state, regional, and local planning for public transportation;

(4) Recommends mechanisms for coordinating public transportation with other transportation services and modes;

(5) Recommends criteria, consistent with the goals identified in subsection (2) of this section and with RCW 82.44.180 (2) and (3), for existing federal authorizations administered by the department to transit agencies; and

(6) Recommends a statewide public transportation facilities and equipment management system as required by federal law.

In developing the state public transportation plan, the department shall involve local jurisdictions, public and private providers of transportation services, nonmotorized interests, and state agencies with an interest in public transportation, including but not limited to the departments of community, trade, and economic development, social and health services, and ecology, the office of the superintendent of public instruction, the office of the governor, and the office of financial management.

The department shall submit ~~((an initial report))~~ to the ~~((legislative)) senate and house~~ transportation committees by December ~~((1, 1993, and shall provide~~

~~annual~~) 1st of each year, reports summarizing the plan's progress (~~(each year thereafter)~~).

Sec. 125. RCW 47.06A.020 and 1999 c 216 s 1 are each amended to read as follows:

(1) The board shall:

(a) Adopt rules and procedures necessary to implement the freight mobility strategic investment program;

(b) Solicit from public entities proposed projects that meet eligibility criteria established in accordance with subsection (4) of this section; and

(c) Review and evaluate project applications based on criteria established under this section, and prioritize and select projects comprising a portfolio to be funded in part with grants from state funds appropriated for the freight mobility strategic investment program. In determining the appropriate level of state funding for a project, the board shall ensure that state funds are allocated to leverage the greatest amount of partnership funding possible. After selecting projects comprising the portfolio, the board shall submit them as part of its budget request to the office of financial management and the legislature. The board shall ensure that projects submitted as part of the portfolio are not more appropriately funded with other federal, state, or local government funding mechanisms or programs. The board shall reject those projects that appear to improve overall general mobility with limited enhancement for freight mobility.

The board shall provide periodic progress reports on its activities to the office of financial management and the ~~((legislative))~~ senate and house transportation committees.

(2) The board may:

(a) Accept from any state or federal agency, loans or grants for the financing of any transportation project and enter into agreements with any such agency concerning the loans or grants;

(b) Provide technical assistance to project applicants;

(c) Accept any gifts, grants, or loans of funds, property, or financial, or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter;

(d) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter; and

(e) Do all things necessary or convenient to carry out the powers expressly granted or implied under this chapter.

(3) The board shall designate strategic freight corridors within the state. The board shall update the list of designated strategic corridors not less than every two years, and shall establish a method of collecting and verifying data, including information on city and county-owned roadways.

(4) ~~((From June 11, 1998, through the biennium ending June 30, 2001,))~~
The board shall utilize threshold project eligibility criteria that, at a minimum, includes the following:

(a) The project must be on a strategic freight corridor;

(b) The project must meet one of the following conditions:

(i) It is primarily aimed at reducing identified barriers to freight movement with only incidental benefits to general or personal mobility; or

(ii) It is primarily aimed at increasing capacity for the movement of freight with only incidental benefits to general or personal mobility; or

(iii) It is primarily aimed at mitigating the impact on communities of increasing freight movement, including roadway/railway conflicts; and

(c) The project must have a total public benefit/total public cost ratio of equal to or greater than one.

(5) From June 11, 1998, through the biennium ending June 30, 2001, the board shall use the multicriteria analysis and scoring framework for evaluating and ranking eligible freight mobility and freight mitigation projects developed by the freight mobility project prioritization committee and contained in the January 16, 1998, report entitled "Project Eligibility, Priority and Selection Process for a Strategic Freight Investment Program." The prioritization process shall measure the degree to which projects address important program objectives and shall generate a project score that reflects a project's priority compared to other projects. The board shall assign scoring points to each criterion that indicate the relative importance of the criterion in the overall determination of project priority. After June 30, 2001, the board may supplement and refine the initial project priority criteria and scoring framework developed by the freight mobility project prioritization committee as expertise and experience is gained in administering the freight mobility program.

(6) It is the intent of the legislature that each freight mobility project contained in the project portfolio submitted by the board utilize the greatest amount of nonstate funding possible. The board shall adopt rules that give preference to projects that contain the greatest levels of financial participation from nonprogram fund sources. The board shall consider twenty percent as the minimum partnership contribution, but shall also ensure that there are provisions allowing exceptions for projects that are located in areas where minimal local funding capacity exists or where the magnitude of the project makes the adopted partnership contribution financially unfeasible.

(7) The board shall develop and recommend policies that address operational improvements that primarily benefit and enhance freight movement, including, but not limited to, policies that reduce congestion in truck lanes at border crossings and weigh stations and provide for access to ports during nonpeak hours.

Sec. 126. RCW 47.10.790 and 1985 c 406 s 1 are each amended to read as follows:

(1) In order to provide funds for the location, design, right of way, and construction of selected interstate highway improvements, there shall be issued and sold upon the request of the Washington state transportation commission, a total of one hundred million dollars of general obligation bonds of the state of Washington to pay the state's share of costs for completion of state route 90 (state route 5 to state route 405) and other related state highway projects eligible for regular federal interstate funding and until December 31, 1989, to temporarily pay the regular federal share of construction of completion projects on state route 90 (state route 5 to state route 405) and other related state highway projects eligible for regular interstate funding in advance of federal-aid apportionments under the provisions of 23 U.S.C. Secs. 115 or 122: PROVIDED, That the total amount of bonds issued to temporarily pay the regular federal share of construction of federal-aid interstate highways in advance of federal-aid apportionments as authorized by this section and RCW 47.10.801 shall not exceed one hundred twenty million dollars: PROVIDED

FURTHER, That the transportation commission shall (~~consult with the legislative transportation committee prior to the adoption of~~) adopt plans for the obligation of federal-aid apportionments received in federal fiscal year 1985 and subsequent years to pay the regular federal share of federal-aid interstate highway construction projects or to convert such apportionments under the provisions of 23 U.S.C. Secs. 115 or 122.

(2) The transportation commission (~~in consultation with the legislative transportation committee~~) may at any time find and determine that any amount of the bonds authorized in subsection (1) of this section, and not then sold, are no longer required to be issued and sold for the purposes described in subsection (1) of this section.

(3) Any bonds authorized by subsection (1) of this section that the transportation commission determines are no longer required for the purpose of paying the cost of the designated interstate highway improvements described therein shall be issued and sold, upon the request of the Washington state transportation commission, to provide funds for the location, design, right of way, and construction of major transportation improvements throughout the state (~~that are identified as category C improvements in RCW 47.05.030~~).

Sec. 127. RCW 47.10.801 and 1999 c 94 s 13 are each amended to read as follows:

(1) In order to provide funds necessary for the location, design, right of way, and construction of selected interstate and other state highway improvements, there shall be issued and sold, subject to subsections (2), (3), and (4) of this section, upon the request of the Washington state transportation commission a total of four hundred sixty million dollars of general obligation bonds of the state of Washington for the following purposes and specified sums:

(a) Not to exceed two hundred twenty-five million dollars to pay the state's share of costs for federal-aid interstate highway improvements and until December 31, 1989, to temporarily pay the regular federal share of construction of federal-aid interstate highway improvements to complete state routes 82, 90, 182, and 705 in advance of federal-aid apportionments under the provisions of 23 U.S.C. Secs. 115 or 122: PROVIDED, That the total amount of bonds issued to temporarily pay the regular federal share of construction of federal-aid interstate highways in advance of federal-aid apportionments as authorized by this section and RCW 47.10.790 shall not exceed one hundred twenty million dollars: PROVIDED FURTHER, That the transportation commission shall (~~consult with the legislative transportation committee prior to the adoption of~~) adopt plans for the obligation of federal-aid apportionments received in federal fiscal year 1985 and subsequent years to pay the regular federal share of federal-aid interstate highway construction projects or to convert such apportionments under the provisions of 23 U.S.C. Secs. 115 or 122;

(b) Two hundred twenty-five million dollars for major transportation improvements throughout the state that are identified as category C improvements and for selected major non-interstate construction and reconstruction projects that are included as Category A Improvements (~~in RCW 47.05.030~~);

(c) Ten million dollars for state highway improvements necessitated by planned economic development, as determined through the procedures set forth in RCW 43.160.074 and 47.01.280.

(2) The amount of bonds authorized in subsection (1)(a) of this section shall be reduced if the transportation commission (~~(, in consultation with the legislative transportation committee,)~~) determines that any of the bonds that have not been sold are no longer required.

(3) The amount of bonds authorized in subsection (1)(b) of this section shall be increased by an amount not to exceed, and concurrent with, any reduction of bonds authorized under subsection (1)(a) of this section in the manner prescribed in subsection (2) of this section.

(4) The transportation commission may decrease the amount of bonds authorized in subsection (1)(c) of this section and increase the amount of bonds authorized in subsection (1)(a) or (b) of this section, or both by an amount equal to the decrease in subsection (1)(c) of this section. The transportation commission may decrease the amount of bonds authorized in subsection (1)(c) of this section only if the legislature appropriates an equal amount of funds from the motor vehicle fund - basic account for the purposes enumerated in subsection (1)(c) of this section.

Sec. 128. RCW 47.10.802 and 1986 c 290 s 1 are each amended to read as follows:

Upon request being made by the transportation commission, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.801 in accordance with chapter 39.42 RCW. The amount of such bonds issued and sold under RCW 47.10.801 through 47.10.809 in any biennium may not exceed the amount of a specific appropriation therefor. Such bonds may be sold from time to time in such amounts as may be necessary for the orderly progress of the state highway improvements specified in RCW 47.10.801. The amount of bonds issued and sold under RCW 47.10.801(1)(a) in any biennium shall not, except as provided in that section, exceed the amount required to match federal-aid interstate funds available to the state of Washington. (~~The transportation commission shall give notice of its intent to sell bonds to the legislative transportation committee before requesting the state finance committee to issue and sell bonds authorized by RCW 47.10.801(1)(a).)~~) The bonds shall be sold in such manner, at such time or times, in such amounts, and at such price or prices as the state finance committee shall determine. The state finance committee may obtain insurance, letters of credit, or other credit facility devices with respect to the bonds and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of the bonds. Promissory notes or other obligations issued under this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the promissory notes or other obligations relate. The state finance committee may authorize the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purposes of retiring the bonds during the life of the project for which they were issued.

Sec. 129. RCW 47.17.850 and 1984 c 7 s 139 are each amended to read as follows:

A state highway to be known as state route number 906 is established as follows:

Beginning at a junction with state route number 90 at the West Summit interchange of Snoqualmie Pass, thence along the alignment of the state route number 90 as it existed on May 11, 1967, in a southeasterly direction to a junction with state route number 90 at the Hyak interchange.

~~((The legislative transportation committee, the house and senate transportation committees, and the department shall undertake appropriate studies to evaluate state route number 906 to determine whether or not it should permanently remain on the state system.))~~

Sec. 130. RCW 47.26.167 and 1991 c 342 s 62 are each amended to read as follows:

The legislature recognizes the need for a multijurisdictional body to review future requests for jurisdictional transfers. The board is hereby directed, beginning September 1, 1991, to receive petitions from cities, counties, or the state requesting any addition or deletion from the state highway system. The board is required to utilize the criteria established in RCW 47.17.001 in evaluating petitions and to adopt rules for implementation of this process. The board shall forward to the ~~((legislative))~~ senate and house transportation committees by November 15 each year any recommended jurisdictional transfers.

Sec. 131. RCW 47.26.170 and 1994 c 179 s 16 are each amended to read as follows:

Each county having within its boundaries an urban area and cities and towns shall prepare and submit to the transportation improvement board arterial inventory data required to determine the long-range arterial construction needs. The counties, cities, and towns shall revise the arterial inventory data every four years to show the current arterial construction needs through the advanced planning period, and as revised shall submit them to the transportation improvement board during the first week of January every four years beginning in 1996. The inventory data shall be prepared pursuant to guidelines established by the transportation improvement board. As information is updated, it shall be made available to the commission ~~((and the legislative transportation committee))~~.

Sec. 132. RCW 47.46.030 and 2002 c 114 s 3 are each amended to read as follows:

(1) The secretary or a designee shall solicit proposals from, and negotiate and enter into agreements with, private entities to undertake as appropriate, together with the department and other public entities, all or a portion of the study, planning, design, construction, operation, and maintenance of transportation systems and facilities, using in whole or in part public or private sources of financing.

The public-private initiatives program may develop up to six demonstration projects. Each proposal shall be weighed on its own merits, and each of the six agreements shall be negotiated individually, and as a stand-alone project.

(2) If project proposals selected prior to September 1, 1994, are terminated by the public or private sectors, the department shall not select any new projects, including project proposals submitted to the department prior to September 1, 1994, and designated by the transportation commission as placeholder projects, after June 16, 1995, until June 30, 1997.

The department, in consultation with the legislative transportation committee, shall conduct a program and fiscal audit of the public-private initiatives program for the biennium ending June 30, 1997. The department shall submit a progress report to the legislative transportation committee on the program and fiscal audit by June 30, 1996, with preliminary and final audit reports due December 1, 1996, and June 30, 1997, respectively.

The department shall develop and submit a proposed public involvement plan to the 1997 legislature to identify the process for selecting new potential projects and the associated costs of implementing the plan. The legislature must adopt the public involvement plan before the department may proceed with any activity related to project identification and selection. Following legislative adoption of the public involvement plan, the department is authorized to implement the plan and to identify potential new projects.

The public involvement plan for projects selected after June 30, 1997, shall, at a minimum, identify projects that: (a) Have the potential of achieving overall public support among users of the projects, residents of communities in the vicinity of the projects, and residents of communities impacted by the projects; (b) meet a state transportation need; (c) provide a significant state benefit; and (d) provide competition among proposers and maximum cost benefits to users. Prospective projects may include projects identified by the department or submitted by the private sector.

Projects that meet the minimum criteria established under this section and the requirements of the public involvement plan developed by the department and approved by the legislature shall be submitted to the Washington state transportation commission for its review. ~~((The commission, in turn, shall submit a list of eligible projects to the legislative transportation committee for its consideration.))~~ Forty-five days after the submission to the ~~((legislative transportation committee))~~ commission of the list of eligible projects, the secretary is authorized to solicit proposals for the eligible project.

(3) Prior to entering into agreements with private entities under the requirements of RCW 47.46.040 for any project proposal selected before September 1, 1994, or after June 30, 1997, except as provided for in subsections ~~((12))~~ (11) and ~~((13))~~ (12) of this section, the department shall require an advisory vote as provided under subsections (5) through ~~((10))~~ (9) of this section.

(4) The advisory vote shall apply to project proposals selected prior to September 1, 1994, or after June 30, 1997, that receive public opposition as demonstrated by the submission to the department of original petitions bearing at least five thousand signatures of individuals opposing the project collected and submitted in accordance with the dates established in subsections ~~((12))~~ (11) and ~~((13))~~ (12) of this section. The advisory vote shall be on the preferred alternative identified under the requirements of chapter 43.21C RCW and, if applicable, the national environmental policy act, 42 U.S.C. 4321 et seq. The execution by the department of the advisory vote process established in this

section is subject to the prior appropriation of funds by the legislature for the purpose of conducting environmental impact studies, a public involvement program, local involvement committee activities, traffic and economic impact analyses, engineering and technical studies, and the advisory vote.

(5) In preparing for the advisory vote, the department shall conduct a comprehensive analysis of traffic patterns and economic impact to define the geographical boundary of the project area that is affected by the imposition of tolls or user fees authorized under this chapter. The area so defined is referred to in this section as the affected project area. In defining the affected project area, the department shall, at a minimum, undertake: (a) A comparison of the estimated percentage of residents of communities in the vicinity of the project and in other communities impacted by the project who could be subject to tolls or user fees and the estimated percentage of other users and transient traffic that could be subject to tolls or user fees; (b) an analysis of the anticipated traffic diversion patterns; (c) an analysis of the potential economic impact resulting from proposed toll rates or user fee rates imposed on residents, commercial traffic, and commercial entities in communities in the vicinity of and impacted by the project; (d) an analysis of the economic impact of tolls or user fees on the price of goods and services generally; and (e) an analysis of the relationship of the project to state transportation needs and benefits.

(6)(a) After determining the definition of the affected project area, the department shall establish a committee comprised of individuals who represent cities and counties in the affected project area; organizations formed to support or oppose the project; and users of the project. The committee shall be named the public-private local involvement committee, and be known as the local involvement committee.

(b) The members of the local involvement committee shall be: (i) An elected official from each city within the affected project area; (ii) an elected official from each county within the affected project area; (iii) two persons from each county within the affected project area who represent an organization formed in support of the project, if the organization exists; (iv) two persons from each county within the affected project area who represent an organization formed to oppose the project, if the organization exists; and (v) four public members active in a statewide transportation organization. If the committee makeup results in an even number of committee members, there shall be an additional appointment of an elected official from the county in which all, or the greatest portion of the project is located.

(c) City and county elected officials shall be appointed by a majority of the members of the city or county legislative authorities of each city or county within the affected project area, respectively. The county legislative authority of each county within the affected project area shall identify and validate organizations officially formed in support of or in opposition to the project and shall make the appointments required under this section from a list submitted by the chair of the organizations. Public members shall be appointed by the governor. All appointments to the local involvement committee shall be made and submitted to the department of transportation no later than January 1, 1996, for projects selected prior to September 1, 1994, and no later than thirty days after the affected project area is defined for projects selected after June 30, 1997. Vacancies in the membership of the local involvement committee shall be filled

by the appointing authority under (b)(i) through (v) of this subsection for each position on the committee.

(d) The local involvement committee shall serve in an advisory capacity to the department on all matters related to the execution of the advisory vote.

(e) Members of the local involvement committee serve without compensation and may not receive subsistence, lodging expenses, or travel expenses.

(7) The department shall conduct a minimum thirty-day public comment period on the definition of the geographical boundary of the project area. The department, in consultation with the local involvement committee, shall make adjustments, if required, to the definition of the geographical boundary of the affected project area, based on comments received from the public. Within fourteen calendar days after the public comment period, the department shall set the boundaries of the affected project area in units no smaller than a precinct as defined in RCW ~~((29.04.120))~~ 29A.04.121.

(8) The department, in consultation with the local involvement committee, shall develop a description for selected project proposals. After developing the description of the project proposal, the department shall publish the project proposal description in newspapers of general circulation for seven calendar days in the affected project area. Within fourteen calendar days after the last day of the publication of the project proposal description, the department shall transmit a copy of the map depicting the affected project area and the description of the project proposal to the county auditor of the county in which any portion of the affected project area is located.

~~(9) ((The department shall provide the legislative transportation committee with progress reports on the status of the definition of the affected project area and the description of the project proposal.~~

~~((10))~~ Upon receipt of the map and the description of the project proposal, the county auditor shall, within thirty days, verify the precincts that are located within the affected project area. The county auditor shall prepare the text identifying and describing the affected project area and the project proposal using the definition of the geographical boundary of the affected project area and the project description submitted by the department and shall set an election date for the submission of a ballot proposition authorizing the imposition of tolls or user fees to implement the proposed project within the affected project area, which date may be the next succeeding general election to be held in the state, or at a special election, if requested by the department. The text of the project proposal must appear in a voter's pamphlet for the affected project area. The department shall pay the costs of publication and distribution. The special election date must be the next date for a special election provided under RCW ~~((29.13.020))~~ 29A.04.330 that is at least sixty days but, if authorized under RCW ~~((29.13.020))~~ 29A.04.330, no more than ninety days after the receipt of the final map and project description by the auditor. The department shall pay the cost of an election held under this section.

~~((11))~~ (10) Notwithstanding any other provision of law, the department may contract with a private developer of a selected project proposal to conduct environmental impact studies, a public involvement program, and engineering and technical studies funded by the legislature. For projects subject to this

subsection, the department shall not enter into an agreement under RCW 47.46.040 prior to the advisory vote on the preferred alternative.

~~((12))~~ (11) Subsections (5) through ~~((10))~~ (9) of this section shall not apply to project proposals selected prior to September 1, 1994, that have no organized public opposition as demonstrated by the submission to the department of original petitions bearing at least five thousand signatures of individuals opposing the project, collected and submitted after September 1, 1994, and by thirty calendar days after June 16, 1995.

~~((13))~~ (12) Subsections (5) through ~~((10))~~ (9) of this section shall not apply to project proposals selected after June 30, 1997, that have no organized public opposition as demonstrated by the submission to the department of original petitions bearing at least five thousand signatures of individuals opposing the project, collected and submitted by ninety calendar days after project selection.

Sec. 133. RCW 47.46.040 and 2002 c 114 s 16 are each amended to read as follows:

(1) The secretary or a designee shall consult with legal, financial, and other experts within and outside state government in the negotiation and development of the agreements.

(2) Agreements may provide for private ownership of the projects during the construction period. After completion and final acceptance of each project or discrete segment thereof, the agreement may provide for state ownership of the transportation systems and facilities and lease to the private entity unless the state elects to provide for ownership of the facility by the private entity during the term of the agreement.

The state may lease each of the demonstration projects, or applicable project segments, to the private entities for operating purposes for up to fifty years.

(3) The department may exercise any power possessed by it to facilitate the development, construction, financing operation, and maintenance of transportation projects under this section. Agreements for maintenance services entered into under this section shall provide for full reimbursement for services rendered by the department or other state agencies. Agreements for police services for projects, involving state highway routes, developed under agreements shall be entered into with the Washington state patrol. The agreement for police services shall provide that the state patrol will be reimbursed for costs on a comparable basis with the costs incurred for comparable service on other state highway routes. The department may provide services for which it is reimbursed, including but not limited to preliminary planning, environmental certification, and preliminary design of the demonstration projects.

(4) The plans and specifications for each project constructed under this section shall comply with the department's standards for state projects. A facility constructed by and leased to a private entity is deemed to be a part of the state highway system for purposes of identification, maintenance, and enforcement of traffic laws and for the purposes of applicable sections of this title. Upon reversion of the facility to the state, the project must meet all applicable state standards. Agreements shall address responsibility for reconstruction or renovations that are required in order for a facility to meet all applicable state standards upon reversion of the facility to the state.

(5) For the purpose of facilitating these projects and to assist the private entity in the financing, development, construction, and operation of the transportation systems and facilities, the agreements may include provisions for the department to exercise its authority, including the lease of facilities, rights of way, and airspace, exercise of the power of eminent domain, granting of development rights and opportunities, granting of necessary easements and rights of access, issuance of permits and other authorizations, protection from competition, remedies in the event of default of either of the parties, granting of contractual and real property rights, liability during construction and the term of the lease, authority to negotiate acquisition of rights of way in excess of appraised value, and any other provision deemed necessary by the secretary.

(6) The agreements entered into under this section may include provisions authorizing the state to grant necessary easements and lease to a private entity existing rights of way or rights of way subsequently acquired with public or private financing. The agreements may also include provisions to lease to the entity airspace above or below the right of way associated or to be associated with the private entity's transportation facility. In consideration for the reversion rights in these privately constructed facilities, the department may negotiate a charge for the lease of airspace rights during the term of the agreement for a period not to exceed fifty years. If, after the expiration of this period, the department continues to lease these airspace rights to the private entity, it shall do so only at fair market value. The agreement may also provide the private entity the right of first refusal to undertake projects utilizing airspace owned by the state in the vicinity of the public-private project.

(7) Agreements under this section may include any contractual provision that is necessary to protect the project revenues required to repay the costs incurred to study, plan, design, finance, acquire, build, install, operate, enforce laws, and maintain toll highways, bridges, and tunnels and which will not unreasonably inhibit or prohibit the development of additional public transportation systems and facilities. Agreements under this section must secure and maintain liability insurance coverage in amounts appropriate to protect the project's viability and may address state indemnification of the private entity for design and construction liability where the state has approved relevant design and construction plans.

(8) Agreements entered into under this section shall include a process that provides for public involvement in decision making with respect to the development of the projects.

(9)(a) In carrying out the public involvement process required in subsection (8) of this section, the private entity shall proactively seek public participation through a process appropriate to the characteristics of the project that assesses and demonstrates public support among: Users of the project, residents of communities in the vicinity of the project, and residents of communities impacted by the project.

(b) The private entity shall conduct a comprehensive public involvement process that provides, periodically throughout the development and implementation of the project, users and residents of communities in the affected project area an opportunity to comment upon key issues regarding the project including, but not limited to: (i) Alternative sizes and scopes; (ii) design; (iii) environmental assessment; (iv) right of way and access plans; (v) traffic impacts;

(vi) tolling or user fee strategies and tolling or user fee ranges; (vii) project cost; (viii) construction impacts; (ix) facility operation; and (x) any other salient characteristics.

(c) If the affected project area has not been defined, the private entity shall define the affected project area by conducting, at a minimum: (i) A comparison of the estimated percentage of residents of communities in the vicinity of the project and in other communities impacted by the project who could be subject to tolls or user fees and the estimated percentage of other users and transient traffic that could be subject to tolls or user fees; (ii) an analysis of the anticipated traffic diversion patterns; (iii) an analysis of the potential economic impact resulting from proposed toll rates or user fee rates imposed on residents, commercial traffic, and commercial entities in communities in the vicinity of and impacted by the project; (iv) an analysis of the economic impact of tolls or user fees on the price of goods and services generally; and (v) an analysis of the relationship of the project to state transportation needs and benefits.

The agreement may require an advisory vote by users of and residents in the affected project area.

(d) In seeking public participation, the private entity shall establish a local involvement committee or committees comprised of residents of the affected project area, individuals who represent cities and counties in the affected project area, organizations formed to support or oppose the project, if such organizations exist, and users of the project. The private entity shall, at a minimum, establish a committee as required under the specifications of RCW 47.46.030(6)(b) (ii) and (iii) and appointments to such committee shall be made no later than thirty days after the project area is defined.

(e) Local involvement committees shall act in an advisory capacity to the department and the private entity on all issues related to the development and implementation of the public involvement process established under this section.

(f) The department and the private entity shall provide the ~~((legislative transportation committee and))~~ local involvement committees with progress reports on the status of the public involvement process including the results of an advisory vote, if any occurs.

(10) Nothing in this chapter limits the right of the secretary and his or her agents to render such advice and to make such recommendations as they deem to be in the best interests of the state and the public.

Sec. 134. RCW 79A.05.125 and 1999 c 301 s 3 are each amended to read as follows:

(1) The department of transportation shall negotiate a franchise with a rail carrier to establish and maintain a rail line over portions of the Milwaukee Road corridor owned by the state between Ellensburg and Lind. The department of transportation may negotiate such a franchise with any qualified rail carrier. Criteria for negotiating the franchise and establishing the right of way include:

(a) Assurances that resources from the franchise will be sufficient to compensate the state for use of the property, including completion of a cross-state trail between Easton and the Idaho border;

(b) Types of payment for use of the franchise, including payment for the use of federally granted trust lands in the transportation corridor;

(c) Standards for maintenance of the line;

(d) Provisions ensuring that both the conventional and intermodal rail service needs of local shippers are met. Such accommodations may comprise agreements with the franchisee to offer or maintain adequate service or to provide service by other carriers at commercially reasonable rates;

(e) Provisions requiring the franchisee, upon reasonable request of any other rail operator, to provide rail service and interchange freight over what is commonly known as the Stampede Pass rail line from Cle Elum to Auburn at commercially reasonable rates;

(f) If any part of the franchise agreement is invalidated by actions or rulings of the federal surface transportation board or a court of competent jurisdiction, the remaining portions of the franchise agreement are not affected;

(g) Compliance with environmental standards; and

(h) Provisions for insurance and the coverage of liability.

(2) The franchise may provide for periodic review of financial arrangements under the franchise.

(3) The department of transportation, in consultation with the parks and recreation commission and the ~~((legislative))~~ senate and house transportation committees, shall negotiate the terms of the franchise, and shall present the agreement to the parks and recreation commission for approval of as to terms and provisions affecting the cross-state trail or affecting the commission.

(4) This section expires July 1, 2006, if the department of transportation does not enter into a franchise agreement for a rail line over portions of the Milwaukee Road corridor by July 1, 2006.

Sec. 135. RCW 81.80.395 and 1988 c 138 s 1 are each amended to read as follows:

The Washington utilities and transportation commission may enter into an agreement or arrangement with a duly authorized representative of the state of Idaho, for the purpose of granting to operators of commercial vehicles that are properly registered in the state of Idaho, the privilege of operating their vehicles in this state within a designated area near the border of their state without the need for registration as required by chapter 81.80 RCW if the state of Idaho grants a similar privilege to operators of commercial vehicles from this state. The initial designated area shall be limited to state route 195 from the Idaho border to Lewiston, and SR 12 from Lewiston to Clarkston. ~~((The utilities and transportation commission shall submit other proposed reciprocal agreements in designated border areas to the legislative transportation committee for approval.))~~

Sec. 136. RCW 81.104.110 and 1998 c 245 s 165 are each amended to read as follows:

The legislature recognizes that the planning processes described in RCW 81.104.100 provide a recognized framework for guiding high capacity transportation studies. However, the process cannot guarantee appropriate decisions unless key study assumptions are reasonable.

To assure appropriate system plan assumptions and to provide for review of system plan results, an expert review panel shall be appointed to provide independent technical review for development of any system plan which is to be funded in whole or in part by the imposition of any voter-approved local option funding sources enumerated in RCW 81.104.140.

(1) The expert review panel shall consist of five to ten members who are recognized experts in relevant fields, such as transit operations, planning, emerging transportation technologies, engineering, finance, law, the environment, geography, economics, and political science.

(2) The expert review panel shall be selected cooperatively by the chairs of the ~~((legislative))~~ senate and house transportation committees, the secretary of the department of transportation, and the governor to assure a balance of disciplines. In the case of counties adjoining another state or Canadian province the expert review panel membership shall be selected cooperatively with representatives of the adjoining state or Canadian province.

(3) The chair of the expert review panel shall be designated by the appointing authorities.

(4) The expert review panel shall serve without compensation but shall be reimbursed for expenses according to ~~((chapter 43.03))~~ RCW 43.03.050 and 43.03.060. Reimbursement shall be paid from within the existing resources of the local authority planning under this chapter.

(5) The panel shall carry out the duties set forth in subsections (6) and (7) of this section until the date on which an election is held to consider the high capacity transportation system and financing plans. ~~((Funds appropriated for expenses of the expert panel shall be administered by the department of transportation.))~~

(6) The expert panel shall review all reports required in RCW 81.104.100(2) and shall concentrate on service modes and concepts, costs, patronage and financing evaluations.

(7) The expert panel shall provide timely reviews and comments on individual reports and study conclusions to the department of transportation, the regional transportation planning organization, the joint regional policy committee, and the submitting lead transit agency. In the case of counties adjoining another state or Canadian province, the expert review panel shall provide its reviews, comments, and conclusions to the representatives of the adjoining state or Canadian province.

(8) The ~~((legislative transportation committee))~~ local authority planning under this chapter shall contract for consulting services for expert review panels. The amount of consultant support shall be negotiated with each expert review panel by the ~~((legislative transportation committee))~~ local authority and shall be paid from ~~((appropriations for that purpose from the high capacity transportation account))~~ within the local authority's existing resources.

Sec. 137. RCW 82.33.020 and 1992 c 231 s 34 are each amended to read as follows:

(1) Four times each year the supervisor shall prepare, subject to the approval of the economic and revenue forecast council under RCW 82.33.010:

- (a) An official state economic and revenue forecast;
- (b) An unofficial state economic and revenue forecast based on optimistic economic and revenue projections; and
- (c) An unofficial state economic and revenue forecast based on pessimistic economic and revenue projections.

(2) The supervisor shall submit forecasts prepared under this section, along with any unofficial forecasts provided under RCW 82.33.010, to the governor and the members of the committees on ways and means and the chairs of the

committees on transportation of the senate and house of representatives (~~and the chair of the legislative transportation committee~~), including one copy to the staff of each of the committees, on or before November 20th, February 20th in the even-numbered years, March 20th in the odd-numbered years, June 20th, and September 20th. All forecasts shall include both estimated receipts and estimated revenues in conformance with generally accepted accounting principles as provided by RCW 43.88.037.

(3) All agencies of state government shall provide to the supervisor immediate access to all information relating to economic and revenue forecasts. Revenue collection information shall be available to the supervisor the first business day following the conclusion of each collection period.

(4) The economic and revenue forecast supervisor and staff shall co-locate and share information, data, and files with the tax research section of the department of revenue but shall not duplicate the duties and functions of one another.

(5) As part of its forecasts under subsection (1) of this section, the supervisor shall provide estimated revenue from tuition fees as defined in RCW 28B.15.020.

Sec. 138. RCW 82.70.060 and 2003 c 364 s 6 are each amended to read as follows:

The commute trip reduction task force shall determine the effectiveness of the tax credit under RCW 82.70.020, the grant program in RCW 70.94.996, and the relative effectiveness of the tax credit and the grant program as part of its ongoing evaluation of the commute trip reduction law and report to the (~~legislative~~) senate and house transportation committees and to the fiscal committees of the house of representatives and the senate. The report must include information on the amount of tax credits claimed to date and recommendations on future funding between the tax credit program and the grant program. The report must be incorporated into the recommendations required in RCW 70.94.537(5).

Sec. 139. RCW 82.80.070 and 2002 c 56 s 413 are each amended to read as follows:

(1) The proceeds collected pursuant to the exercise of the local option authority of RCW 82.80.010, (~~(82.80.020)~~) 82.80.030, and 82.80.050 (hereafter called "local option transportation revenues") shall be used for transportation purposes only, including but not limited to the following: The operation and preservation of roads, streets, and other transportation improvements; new construction, reconstruction, and expansion of city streets, county roads, and state highways and other transportation improvements; development and implementation of public transportation and high-capacity transit improvements and programs; and planning, design, and acquisition of right of way and sites for such transportation purposes. The proceeds collected from excise taxes on the sale, distribution, or use of motor vehicle fuel and special fuel under RCW 82.80.010 shall be used exclusively for "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

(2) The local option transportation revenues shall be expended for transportation uses consistent with the adopted transportation and land use plans

of the jurisdiction expending the funds and consistent with any applicable and adopted regional transportation plan for metropolitan planning areas.

(3) Each local government with a population greater than eight thousand that levies or expends local option transportation funds, is also required to develop and adopt a specific transportation program that contains the following elements:

(a) The program shall identify the geographic boundaries of the entire area or areas within which local option transportation revenues will be levied and expended.

(b) The program shall be based on an adopted transportation plan for the geographic areas covered and shall identify the proposed operation and construction of transportation improvements and services in the designated plan area intended to be funded in whole or in part by local option transportation revenues and shall identify the annual costs applicable to the program.

(c) The program shall indicate how the local transportation plan is coordinated with applicable transportation plans for the region and for adjacent jurisdictions.

(d) The program shall include at least a six-year funding plan, updated annually, identifying the specific public and private sources and amounts of revenue necessary to fund the program. The program shall include a proposed schedule for construction of projects and expenditure of revenues. The funding plan shall consider the additional local tax revenue estimated to be generated by new development within the plan area if all or a portion of the additional revenue is proposed to be earmarked as future appropriations for transportation improvements in the program.

(4) Local governments with a population greater than eight thousand exercising the authority for local option transportation funds shall periodically review and update their transportation program to ensure that it is consistent with applicable local and regional transportation and land use plans and within the means of estimated public and private revenue available.

(5) In the case of expenditure for new or expanded transportation facilities, improvements, and services, priorities in the use of local option transportation revenues shall be identified in the transportation program and expenditures shall be made based upon the following criteria, which are stated in descending order of weight to be attributed:

(a) First, the project serves a multijurisdictional function;

(b) Second, it is necessitated by existing or reasonably foreseeable congestion;

(c) Third, it has the greatest person-carrying capacity;

(d) Fourth, it is partially funded by other government funds, such as from the state transportation improvement board, or by private sector contributions, such as those from the local transportation act, chapter 39.92 RCW; and

(e) Fifth, it meets such other criteria as the local government determines is appropriate.

(6) It is the intent of the legislature that as a condition of levying, receiving, and expending local option transportation revenues, no local government agency use the revenues to replace, divert, or loan any revenues currently being used for transportation purposes to nontransportation purposes. (~~The association of Washington cities and the Washington state association of counties, in~~

~~consultation with the legislative transportation committee, shall study the issue of nondiversion and make recommendations to the legislative transportation committee for language implementing the intent of this section by December 1, 1990.)~~

(7) Local governments are encouraged to enter into interlocal agreements to jointly develop and adopt with other local governments the transportation programs required by this section for the purpose of accomplishing regional transportation planning and development.

(8) Local governments may use all or a part of the local option transportation revenues for the amortization of local government general obligation and revenue bonds issued for transportation purposes consistent with the requirements of this section.

(9) Subsections (1) through (8) of this section do not apply to a regional transportation investment district imposing a tax or fee under the local option authority of this chapter. Proceeds collected under the exercise of local option authority under this chapter by a district must be used in accordance with chapter 36.120 RCW.

Sec. 140. RCW 90.03.525 and 1996 c 285 s 1 and 1996 c 230 s 1617 are each reenacted and amended to read as follows:

(1) The rate charged by a local government utility to the department of transportation with respect to state highway right of way or any section of state highway right of way for the construction, operation, and maintenance of storm water control facilities under chapters 35.67, 35.92, 36.89, 36.94, 57.08, and 86.15 RCW, shall be thirty percent of the rate for comparable real property, except as otherwise provided in this section. The rate charged to the department with respect to state highway right of way or any section of state highway right of way within a local government utility's jurisdiction shall not, however, exceed the rate charged for comparable city street or county road right of way within the same jurisdiction. The legislature finds that the aforesaid rates are presumptively fair and equitable because of the traditional and continuing expenditures of the department of transportation for the construction, operation, and maintenance of storm water control facilities designed to control surface water or storm water runoff from state highway rights of way.

(2) Charges paid under subsection (1) of this section by the department of transportation must be used solely for storm water control facilities that directly reduce state highway runoff impacts or implementation of best management practices that will reduce the need for such facilities. By January 1st of each year, beginning with calendar year 1997, the local government utility, in coordination with the department, shall develop a plan for the expenditure of the charges for that calendar year. The plan must be consistent with the objectives identified in RCW 90.78.010. In addition, beginning with the submittal for 1998, the utility shall provide a progress report on the use of charges assessed for the prior year. No charges may be paid until the plan and report have been submitted to the department.

(3) The utility imposing the charge and the department of transportation may, however, agree to either higher or lower rates with respect to the construction, operation, or maintenance of any specific storm water control facilities based upon the annual plan prescribed in subsection (2) of this section. ~~((If a different rate is agreed to, a report so stating shall be submitted to the~~

~~legislative transportation committee-))~~ If, after mediation, the local government utility and the department of transportation cannot agree upon the proper rate, ~~((and after a report has been submitted to the legislative transportation committee and after ninety days from submission of such report,))~~ either may commence an action in the superior court for the county in which the state highway right of way is located to establish the proper rate. The court in establishing the proper rate shall take into account the extent and adequacy of storm water control facilities constructed by the department and the actual benefits to the sections of state highway rights of way from storm water control facilities constructed, operated, and maintained by the local government utility. Control of surface water runoff and storm water runoff from state highway rights of way shall be deemed an actual benefit to the state highway rights of way. The rate for sections of state highway right of way as determined by the court shall be set forth in terms of the percentage of the rate for comparable real property, but shall in no event exceed the rate charged for comparable city street or county road right of way within the same jurisdiction.

(4) The legislature finds that the federal clean water act (national ~~((pollution pollutant))~~ pollutant) discharge elimination system, 40 C.F.R. parts 122-124, the state water pollution control act, chapter 90.48 RCW, and the highway runoff program under chapter ~~((90.70))~~ 90.71 RCW, mandate the treatment and control of storm water runoff from state highway rights of way owned by the department of transportation. Appropriations made by the legislature to the department of transportation for the construction, operation, and maintenance of storm water control facilities are intended to address applicable federal and state mandates related to storm water control and treatment. This section is not intended to limit opportunities for sharing the costs of storm water improvements between cities, counties, and the state.

NEW SECTION. Sec. 141. The following acts or parts of acts are each repealed:

(1) RCW 44.40.010 (Creation—Composition—Appointments—Vacancies—Rules) and 1999 sp.s. c 1 s 616, 1980 c 87 s 39, 1971 ex.s. c 195 s 1, 1967 ex.s. c 145 s 68, 1965 ex.s. c 170 s 64, & 1963 ex.s. c 3 s 35;

(2) RCW 44.40.013 (Administration) and 2001 c 259 s 5;

(3) RCW 44.40.015 (Executive committee—Selection—Duties) and 2001 c 259 s 6 & 1999 sp.s. c 1 s 617;

(4) RCW 44.40.030 (Participation in activities of other organizations) and 1982 c 227 s 17, 1977 ex.s. c 235 s 7, 1971 ex.s. c 195 s 3, & 1963 ex.s. c 3 s 38;

(5) RCW 44.40.040 (Members' allowances—Procedure for payment of committee's expenses) and 2001 c 259 s 7, 1979 c 151 s 157, 1977 ex.s. c 235 s 8, 1975 1st ex.s. c 268 s 3, 1971 ex.s. c 195 s 4, & 1963 ex.s. c 3 s 39;

(6) RCW 44.40.090 (Delegation of powers and duties to senate and house transportation committees) and 2001 c 259 s 8, 1977 ex.s. c 235 s 10, & 1973 1st ex.s. c 210 s 2;

(7) RCW 44.40.140 (Review of policy on fees imposed on nonpolluting fuels—Report) and 1983 c 212 s 2;

(8) RCW 44.40.150 (Study—Recommendations for consideration—Staffing) and 1998 c 245 s 88 & 1989 1st ex.s. c 6 s 14;

(9) RCW 44.40.161 (Audit review of transportation-related agencies) and 2003 c 362 s 16;

(10) RCW 53.08.350 (Moratorium on runway construction or extension, or initiation of new service—Certain counties affected) and 1992 c 190 s 2;

(11) RCW 44.40.020 (Powers, duties, and studies) and 1996 c 129 s 9, 1977 ex.s. c 235 s 5, 1975 1st ex.s. c 268 s 1, & 1963 ex.s. c 3 s 36;

(12) RCW 44.40.070 (State transportation agencies—Comprehensive programs and financial plans) and 1998 c 245 s 87, 1988 c 167 s 10, 1979 ex.s. c 192 s 3, 1979 c 158 s 112, 1977 ex.s. c 235 s 9, & 1973 1st ex.s. c 201 s 1;

(13) RCW 44.40.080 (State transportation agencies—Recommended budget—Preparation and presentation—Contents) and 1973 1st ex.s. c 201 s 2;

(14) RCW 44.40.100 (Contracts and programs authorized) and 2001 c 259 s 9, 1977 ex.s. c 235 s 11, 1975 1st ex.s. c 268 s 7, & 1973 1st ex.s. c 210 s 3;

(15) RCW 46.23.040 (Review of agreement by legislative transportation committee) and 1982 c 212 s 4;

(16) RCW 47.01.145 (Study reports available to legislators upon request) and 1984 c 7 s 76, 1971 ex.s. c 195 s 6, & 1967 ex.s. c 145 s 78;

(17) RCW 47.05.090 (Application of 1993 c 490—Deviations) and 1993 c 490 s 6;

(18) RCW 47.12.360 (Advanced environmental mitigation—Reports) and 1997 c 140 s 5;

(19) RCW 47.76.340 (Evaluating program performance) and 1993 c 224 s 13 & 1990 c 43 s 8;

(20) RCW 47.74.010 (Multistate Highway Transportation Agreement enacted, terms) and 1983 c 82 s 1; and

(21) RCW 47.74.020 (Appointment of delegates to represent state) and 1983 c 82 s 2.

NEW SECTION. Sec. 142. Part headings used in this act are no part of the law.

NEW SECTION. Sec. 143. (1) RCW 44.40.120 is recodified as a section in chapter 44.04 RCW.

(2) RCW 44.40.025 is recodified as a section in chapter 43.88 RCW.

NEW SECTION. Sec. 144. Sections 12 and 13 of this act are each added to chapter 44.04 RCW.

NEW SECTION. Sec. 145. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005, except for section 103 of this act which takes effect July 1, 2006.

NEW SECTION. Sec. 146. Section 138 of this act expires July 1, 2013.

Passed by the Senate April 22, 2005.

Passed by the House April 21, 2005.

Approved by the Governor May 9, 2005, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 9, 2005.

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

"I am returning, without my approval as to Section 14, Engrossed Senate Bill No. 5513 entitled:
"AN ACT Relating to restructuring of certain transportation agencies."

The Legislature has created, through this bill, the Joint Transportation Committee to conduct a unilateral study of the appropriate functions of the Department of Transportation (Department) and the Transportation Commission (Commission). Now that the Department is a cabinet level agency, it is critical that the executive branch exercise its responsibility for reviewing the powers, functions, roles and duties of the Department and the Commission. The Legislature passed several bills this session that redefine the roles of the Department and the Commission, and the relationship of those agencies to the Legislature. I am directing my staff to work with the Department and the Commission to examine the statutory roles and duties of the agencies, including transportation innovative partnerships, and report back to me with any recommendations for change. I invite the chairs and ranking members of the House and Senate Transportation Committees and the Joint Transportation Committee to join the executive branch in this analysis with the hope that a joint recommendation can be submitted for consideration during the 2006 legislative session.

For these reasons, I have vetoed Section 14 of Engrossed Senate Bill No. 5513.

With the exception of Section 14, Engrossed Senate Bill No. 5513 is approved."

CHAPTER 320

[House Bill 1002]

MOTOR VEHICLES—COMPRESSION BRAKES

AN ACT Relating to motor vehicle compression brakes; amending RCW 46.63.110; and adding a new section to chapter 46.37 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.37 RCW to read as follows:

(1) This section applies to all motor vehicles with a declared gross weight in excess of 10,000 pounds operated on public roads and equipped with engine compression brake devices. An engine compression brake device is any device that uses the engine and transmission to impede the forward motion of the motor vehicle by compression of the engine.

(2) The driver of a motor vehicle equipped with a device that uses the compression of the motor vehicle engine shall not use the device unless:

(a) The motor vehicle is equipped with an operational muffler and exhaust system to prevent excess noise. The muffler and exhaust system must maintain the noise level at eighty-three decibels or less for motor vehicles manufactured after January 1, 1979, and eighty decibels or less for motor vehicles manufactured after January 1, 1988; or

(b) The driver reasonably believes that an emergency exists which requires the use of the device to: (i) Protect against an immediate threat to the physical safety of the driver or others; (ii) protect against immediate threat of damage to property; or (iii) effectively reduce the speed of the motor vehicle using the manufacturer's motor vehicle braking system when declining from an elevated roadway.

(3) The monetary penalty for violating subsection (2) of this section is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

(4) The Washington state patrol must establish rules for Washington state law enforcement agencies to enforce subsection (2) of this section.

(5) All medium and heavy trucks must comply with federal code 205 - transportation equipment noise emission controls, subpart B.

(6) Nothing in this section prohibits a local jurisdiction from implementing an ordinance that is more restrictive than the state law and Washington state patrol rules regarding the use of compression brakes.

Sec. 2. RCW 46.63.110 and 2003 c 380 s 2 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of RCW 46.55.105(2) is two hundred fifty dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department shall suspend the person's driver's license or driving privilege until the penalty has been paid and the penalty provided in subsection (4) of this section has been paid.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed a fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or

suspend the additional penalty unless the court finds the offender to be indigent. If a community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited as provided in RCW 43.08.250. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) The monetary penalty for violating section 1 of this act is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

Passed by the House April 18, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 321

[House Bill 1128]

FISH AND WILDLIFE ENFORCEMENT CODE—INFRACTIONS

AN ACT Relating to the definition of the term "conviction" in chapter 77.15 RCW; amending RCW 77.15.700 and 77.15.020; and prescribing penalties.

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

Sec. 1. RCW 77.15.700 and 2003 c 386 s 2 are each amended to read as follows:

The department shall impose revocation and suspension of privileges (~~upon conviction~~) in the following circumstances:

- (1) Upon conviction, if directed by statute for an offense;
- (2) Upon conviction, if the department finds that actions of the defendant demonstrated a willful or wanton disregard for conservation of fish or wildlife. Such suspension of privileges may be permanent. This subsection (2) does not apply to violations involving commercial fishing;
- (3) If a person is convicted twice within ten years for a violation involving unlawful hunting, killing, or possessing big game, the department shall order revocation and suspension of all hunting privileges for two years. RCW 77.12.722 or 77.16.050 as it existed before June 11, 1998, may comprise one of the convictions constituting the basis for revocation and suspension under this subsection;

(4)(a) If a person is convicted of an offense, has an uncontested notice of infraction, fails to appear at a hearing to contest an infraction, or is found to have committed an infraction three times in ten years (~~(of)~~) involving any violation of recreational hunting or fishing laws or rules, the department shall order a

revocation and suspension of all recreational hunting and fishing privileges for two years.

(b) A violation punishable as an infraction counts towards the revocation and suspension of recreational hunting and fishing privileges only where that violation is:

(i) Punishable as a crime on the effective date of this section and is subsequently decriminalized; or

(ii) One of the following violations, as they exist on the effective date of this section: RCW 77.15.160 (1) or (2); WAC 220-56-116; WAC 220-56-315(11); or WAC 220-56-355 (1) through (4).

(c) The commission may, by rule, designate additional infractions that do not count towards the revocation and suspension of recreational hunting and fishing privileges.

Sec. 2. RCW 77.15.020 and 1998 c 190 s 3 are each amended to read as follows:

If the commission or director has authority to adopt a rule that is punishable as a crime under this chapter, then the commission or director may provide that violation of the rule shall be punished with notice of infraction under RCW 7.84.030. Neither the commission nor the director have the authority to adopt a rule providing that a violation punishable as an infraction shall be a crime.

Passed by the House April 19, 2005.

Passed by the Senate April 15, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 322

[Substitute House Bill 1185]

PERSONAL WIRELESS NUMBERS—DISCLOSURE

AN ACT Relating to use and disclosure of personal wireless numbers; adding a new section to Title 19 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to Title 19 RCW to read as follows:

(1) A radio communications service company, as defined in RCW 80.04.010, or any direct or indirect affiliate or agent of a provider, shall not include the phone number of any subscriber for inclusion in any directory of any form, nor shall it sell the contents of any directory data base, without first obtaining the express, opt-in consent of that subscriber. The subscriber's consent must be obtained either in writing or electronically, and a receipt must be provided to the subscriber. The consent shall be a separate document or located on a separate screen or web page that has the sole purpose of authorizing a radio communications service company to include the subscriber's phone number in a publicly available directory assistance data base. In obtaining the subscriber's consent, the provider shall unambiguously disclose that, by consenting, the subscriber agrees to have the subscriber's phone number sold or licensed as part of a list of subscribers and that the phone number may be included in a publicly available directory assistance data base. The provider must also disclose that by

consenting to be included in the directory, the subscriber may incur additional charges for receiving unsolicited calls or text messages.

(2) A subscriber who provides express consent pursuant to subsection (1) of this section may revoke that consent at any time. A radio communications service company shall comply with the subscriber's request to opt out within a reasonable period of time, not to exceed sixty days.

(3) A subscriber shall not be charged for opting not to be listed in the directory.

(4) This section does not apply to the provision of telephone numbers, for the purposes indicated, to:

(a) Any law enforcement agency, fire protection agency, public health agency, public environmental health agency, city or county emergency services planning agency, or private for-profit corporation operating under contract with, and at the direction of, one or more of these agencies, for the exclusive purpose of responding to a 911 call or communicating an imminent threat to life or property. Information or records provided to a private for-profit corporation pursuant to (b) of this subsection shall be held in confidence by that corporation and by any individual employed by or associated with that corporation. Such information or records shall not be open to examination for any purpose not directly connected with the administration of the services specified in this subsection;

(b) A lawful process issued under state or federal law;

(c) A telecommunications company providing service between service areas for the provision of telephone services to the subscriber between service areas, or to third parties for the limited purpose of providing billing services;

(d) A telecommunications company to effectuate a customer's request to transfer the customer's assigned telephone number from the customer's existing provider of telecommunications services to a new provider of telecommunications services;

(e) The utilities and transportation commission pursuant to its jurisdiction and control over telecommunications companies; and

(f) A sales agent to provide the subscriber's cell phone numbers to the cellular provider for the limited purpose of billing and customer service.

(5) Every knowing violation of this section is punishable by a fine of up to fifty thousand dollars for each violation.

(6) The attorney general may bring actions to enforce compliance with this section. For the first violation by any company or organization of this section, the attorney general may notify the company with a letter of warning that the section has been violated.

(7) No telecommunications company, nor any official or employee of a telecommunications company, shall be subject to criminal or civil liability for the release of customer information as authorized by this section.

Passed by the House April 18, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 323

[Engrossed House Bill 1241]

MOTOR VEHICLES—REGISTRATION

AN ACT Relating to vehicle licensing and registration; amending RCW 46.63.020; reenacting and amending RCW 46.16.010; creating new sections; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. When a person establishes residency in this state, unless otherwise exempt by statute, the person must register any vehicles to be operated on public highways, and pay all required licensing fees and taxes. Washington residents must renew vehicle registrations annually as well. The intent of this act is to increase the monetary penalties associated with failure to properly register vehicles in the state of Washington.

Sec. 2. RCW 46.16.010 and 2003 c 353 s 8 and 2003 c 53 s 238 are each reenacted and amended to read as follows:

(1) It is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates therefor as by this chapter provided.

(2) Failure to make initial registration before operation on the highways of this state is a (~~misdemeanor~~) traffic infraction, and any person (~~convicted thereof must be punished by~~) committing this infraction shall pay a (~~fine~~) penalty of (~~no less than three hundred thirty~~) five hundred twenty-nine dollars, no part of which may be suspended or deferred.

(3) Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

(4) The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16.028, evading the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable as follows:

(a) For a first offense, up to one year in the county jail and payment of a fine (~~equal to~~) of five hundred twenty-nine dollars plus twice the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(b) For a second or subsequent offense, up to one year in the county jail and payment of a fine (~~equal to~~) of five hundred twenty-nine dollars plus four times the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(c) For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed will be deposited in the vehicle licensing fraud account created in the state treasury;

(d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion.

(5) These provisions shall not apply to the following vehicles:

(a) Motorized foot scooters;

(b) Electric-assisted bicycles;

(c) Farm vehicles if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding

temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law;

(d) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(e) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve: PROVIDED FURTHER, That these provisions shall not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;

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

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(6) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

(7)(a) A motor vehicle subject to initial or renewal registration under this section shall not be registered to a natural person unless the person at time of application:

(i) Presents an unexpired Washington state driver's license; or

(ii) Certifies that he or she is:

(A) A Washington resident who does not operate a motor vehicle on public roads; or

(B) Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

(b) For shared or joint ownership, the department will set up procedures to verify that all owners meet the requirements of this subsection.

(c) A person falsifying residency is guilty of a gross misdemeanor punishable only by a fine of five hundred twenty-nine dollars.

(d) The department may adopt rules necessary to implement this subsection, including rules under which a natural person applying for registration may be exempt from the requirements of this subsection where the person provides evidence satisfactory to the department that he or she has a valid and compelling reason for not being able to meet the requirements of this subsection.

Sec. 3. RCW 46.63.020 and 2004 c 95 s 14 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to ~~((initial registration of motor vehicles))~~ the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381(2) relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.410 relating to the violation of restrictions of an occupational or temporary restricted driver's license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;

(18) RCW 46.25.170 relating to commercial driver's licenses;

(19) Chapter 46.29 RCW relating to financial responsibility;

(20) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(21) RCW 46.37.435 relating to wrongful installation of suncreening material;

(22) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

(23) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

(24) RCW 46.48.175 relating to the transportation of dangerous articles;

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

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

(27) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

(28) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

(29) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

(30) RCW 46.55.035 relating to prohibited practices by tow truck operators;

(31) RCW 46.61.015 relating to obedience to police officers, flaggers, or fire fighters;

(32) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

(33) RCW 46.61.022 relating to failure to stop and give identification to an officer;

(34) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

- (35) RCW 46.61.500 relating to reckless driving;
- (36) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
- (37) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;
- (38) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- (39) RCW 46.61.522 relating to vehicular assault;
- (40) RCW 46.61.5249 relating to first degree negligent driving;
- (41) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;
- (42) RCW 46.61.530 relating to racing of vehicles on highways;
- (43) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- (44) RCW 46.61.740 relating to theft of motor vehicle fuel;
- (45) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
- (46) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;
- (47) Chapter 46.65 RCW relating to habitual traffic offenders;
- (48) RCW 46.68.010 relating to false statements made to obtain a refund;
- (49) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;
- (50) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;
- (51) RCW 46.72A.060 relating to limousine carrier insurance;
- (52) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;
- (53) RCW 46.72A.080 relating to false advertising by a limousine carrier;
- (54) Chapter 46.80 RCW relating to motor vehicle wreckers;
- (55) Chapter 46.82 RCW relating to driver's training schools;
- (56) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;
- (57) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

NEW SECTION. **Sec. 4.** This act takes effect August 1, 2005.

NEW SECTION. **Sec. 5.** This act applies to registrations due or to become due on or after January 1, 2006.

Passed by the House April 19, 2005.

Passed by the Senate April 23, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 324

[House Bill 1247]

MANUFACTURED HOUSING COMMUNITIES—WATER-SEWER CONNECTIONS

AN ACT Relating to charging manufactured housing communities for water and sewer connections; and amending RCW 35.91.040 and 36.94.140.

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

Sec. 1. RCW 35.91.040 and 1965 c 7 s 35.91.040 are each amended to read as follows:

~~(No)~~ (1) A person, firm, or corporation ~~((shall))~~ may not be granted a permit or be authorized to tap into, or use any such water or sewer facilities or extensions thereof during the period of time prescribed in such contract without first paying to the municipality, in addition to any and all other costs and charges made or assessed for such tap, or use, or for the water lines or sewers constructed in connection therewith, the amount required by the provisions of the contract under which the water or sewer facilities so tapped into or used were constructed. All amounts so received by the municipality shall be paid out by it under the terms of such contract within sixty days after the receipt thereof. Whenever any tap or connection is made into any such contracted water or sewer facilities without such payment having first been made, the governing body of the municipality may remove, or cause to be removed, such unauthorized tap or connection and all connecting tile, or pipe located in the facility right of way and dispose of unauthorized material so removed without any liability whatsoever.

(2) A tap or connection charge under this section for service to a manufactured housing community, as defined in RCW 59.20.030, applies to an individual lot within that community only if the municipality provides and maintains the tap-in connection.

Sec. 2. RCW 36.94.140 and 2003 c 394 s 4 are each amended to read as follows:

(1) Every county, in the operation of a system of sewerage and/or water, shall have full jurisdiction and authority to manage, regulate, and control it. Except as provided in subsection (3) of this section, every county shall have full jurisdiction and authority to fix, alter, regulate, and control the rates and charges for the service and facilities to those to whom such service and facilities are available, and to levy charges for connection to the system.

(2) The rates for availability of service and facilities, and connection charges so charged must be uniform for the same class of customers or service and facility. In classifying customers served, service furnished or made available by such system of sewerage and/or water, or the connection charges, the county legislative authority may consider any or all of the following factors:

(a) The difference in cost of service to the various customers within or without the area;

(b) The difference in cost of maintenance, operation, repair and replacement of the various parts of the systems;

(c) The different character of the service and facilities furnished various customers;

(d) The quantity and quality of the sewage and/or water delivered and the time of its delivery;

(e) Capital contributions made to the system or systems, including, but not limited to, assessments;

(f) The cost of acquiring the system or portions of the system in making system improvements necessary for the public health and safety;

(g) The nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and

(h) Any other matters which present a reasonable difference as a ground for distinction.

(3) The rate a county may charge under this section for storm or surface water sewer systems or the portion of the rate allocable to the storm or surface water sewer system of combined sanitary sewage and storm or surface water sewer systems shall be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. Rainwater harvesting systems shall be properly sized to utilize the available roof surface of the building. The jurisdiction shall consider rate reductions in excess of ten percent dependent upon the amount of rainwater harvested.

(4) A county may provide assistance to aid low-income persons in connection with services provided under this chapter.

(5) The service charges and rates shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for the efficient and proper operation of the system.

(6) A connection charge under this section for service to a manufactured housing community, as defined in RCW 59.20.030, applies to an individual lot within that community only if the system of water or sewerage provides and maintains the connection.

Passed by the House April 20, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 325

[Substitute House Bill 1266]

COMMERCIAL DRIVERS—TRANSIT OPERATORS—DRUG AND ALCOHOL TEST REPORTING

AN ACT Relating to positive drug or alcohol test results of commercial motor vehicle operators; amending RCW 46.25.010, 46.25.123, 46.25.125, and 46.25.090; and creating a new section.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to promote the safety of drivers and passengers on Washington roads and public transportation systems. To this end, Washington has established a reporting requirement for employers of commercial drivers who test positive for unlawful substances. The legislature recognizes that transit operators and their employers are an asset to the public transportation system and continuously strive to provide a safe and efficient mode of travel. In light of this, the legislature further intends that the inclusion of transit employers in the reporting requirements serve only to enhance the current efforts of these dedicated employers and employees as they continue to provide a safe public transportation system to the citizens of Washington.

Sec. 2. RCW 46.25.010 and 2004 c 187 s 2 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred milliliters of blood; or

(b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued in accordance with the requirements of this chapter to an individual that authorizes the individual to drive a class of commercial motor vehicle.

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to the CMVSA to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial driver's instruction permit" means a permit issued under RCW 46.25.060(5).

(6) "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property:

(a) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds;

(b) If the vehicle is designed to transport sixteen or more passengers, including the driver;

(c) If the vehicle is transporting hazardous materials as defined in this section; or

(d) If the vehicle is a school bus regardless of weight or size.

(7) "Conviction" has the definition set forth in RCW 46.20.270.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single or a combination or articulated vehicle, or the registered gross weight, where this value cannot be determined. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not

include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

(16) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(17) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

~~((17))~~ (18) "Serious traffic violation" means:

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(d) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(e) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, is not guilty of a "serious traffic offense";

(f) Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and

(g) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

~~((18))~~ (19) "State" means a state of the United States and the District of Columbia.

~~((19))~~ (20) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. 40.281.

(21) "Tank vehicle" means a vehicle that is designed to transport a liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Tank vehicles include, but are not limited to cargo tanks and portable tanks. However, this definition does not include portable tanks having a rated capacity under one thousand gallons.

~~((20))~~ (22) "United States" means the fifty states and the District of Columbia.

(23) "Verified positive drug test" means a drug test result or validity testing result from a laboratory certified under the authority of the federal department of health and human services that:

(a) Indicates a drug concentration at or above the cutoff concentration established under 49 C.F.R. 40.87; and

(b) Has undergone review and final determination by a medical review officer.

A report that a person has refused a drug test, under circumstances that constitute the refusal of a federal department of transportation drug test under 49 C.F.R. 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter.

Sec. 3. RCW 46.25.123 and 2002 c 272 s 1 are each amended to read as follows:

(1) All medical review officers or breath alcohol technicians hired by or under contract to a motor carrier or employer who employs drivers who operate commercial motor vehicles and who is required to have a testing program conducted under the procedures established by 49 C.F.R. ~~((382))~~ 40 or to a consortium the carrier or employer belongs to, as defined in 49 C.F.R. ~~((382-17))~~ 40.3, shall report the finding of a commercial motor vehicle driver's ~~((confirmed))~~ verified positive drug test or positive alcohol confirmation test to the department of licensing on a form provided by the department. If the employer is required to have a testing program under 49 C.F.R. 655, a report of a verified positive drug test or positive alcohol confirmation test must not be forwarded to the department under this subsection unless the test is a pre-employment drug test conducted under 49 C.F.R. 655.41 or a pre-employment alcohol test conducted under 49 C.F.R. 655.42.

(2)(a) A motor carrier or employer who employs drivers who operate commercial motor vehicles and who is required to have a testing program conducted under the procedures established by 49 C.F.R. 40, or the consortium the carrier or employer belongs to, must report a refusal by a commercial motor vehicle driver to take a drug or alcohol test, under circumstances that constitute the refusal of a test under 49 C.F.R. 40 and where such refusal has not been reported by a medical review officer or breath alcohol technician, to the department of licensing on a form provided by the department.

(b) An employer who is required to have a testing program under 49 C.F.R. 655 must report a commercial motor vehicle driver's verified positive drug test or a positive alcohol confirmation test when: (i) The driver's employment has been terminated or the driver has resigned; (ii) any grievance process, up to but not including arbitration, has been concluded; and (iii) at the time of termination or resignation the driver has not been cleared to return to safety-sensitive functions.

(3) Motor carriers, employers, or consortiums shall make it a written condition of their contract or agreement with a medical review officer or breath alcohol technician, regardless of the state where the medical review officer or breath alcohol technician is located, that the medical review officer or breath alcohol technician is required to report all Washington state licensed drivers who have a ~~((confirmed))~~ verified positive drug test or positive alcohol confirmation

test to the department of licensing within three business days of the (~~confirmed test~~) verification or confirmation. Failure to obtain this contractual condition or agreement with the medical review officer or breath alcohol technician by the motor carrier, employer, or consortium, or failure to report a refusal as required by subsection (2) of this section, will result in an administrative fine as provided in RCW 46.32.100 or 81.04.405.

(4) Substances obtained for testing may not be used for any purpose other than drug or alcohol testing under 49 C.F.R. (~~(382)~~) 40.

Sec. 4. RCW 46.25.125 and 2002 c 272 s 2 are each amended to read as follows:

(1) When the department of licensing receives a report from a medical review officer (~~(or)~~), breath alcohol technician, employer, contractor, or consortium that (~~the holder of a commercial driver's license~~) a driver has a (~~confirmed~~) verified positive drug test or positive alcohol confirmation test, (~~either~~) as part of the testing program (~~required by~~) conducted under 49 C.F.R. (~~382 or as part of a preemployment drug test~~) 40, the department shall disqualify the driver from driving a commercial motor vehicle under RCW 46.25.090(7) subject to a hearing as provided in this section. The department shall notify the person in writing of the disqualification by first class mail. The notice must explain the procedure for the person to request a hearing.

(2) A person disqualified from driving a commercial motor vehicle for having a (~~confirmed~~) verified positive drug test or positive alcohol confirmation test may request a hearing to challenge the disqualification within twenty days from the date notice is given. If the request for a hearing is mailed, it must be postmarked within twenty days after the department has given notice of the disqualification.

(3) The hearing must be conducted in the county of the person's residence, except that the department may conduct all or part of the hearing by telephone or other electronic means.

(4) For the purposes of this section, or for the purpose of a hearing de novo in an appeal to superior court, the hearing must be limited to the following issues: (a) Whether the driver is the person who (~~took the drug or alcohol test~~) is the subject of the report; (b) whether the motor carrier, employer, or consortium has a program that (~~meets~~) is subject to the federal requirements under 49 C.F.R. (~~382~~) 40; and (c) whether the medical review officer or breath alcohol technician making the report accurately followed the protocols (~~for testing~~) established to (~~certify~~) verify or confirm the results, or if the driver refused a test, whether the circumstances constitute the refusal of a test under 49 C.F.R. 40. Evidence may be presented to demonstrate that the test results are a false positive. For the purpose of a hearing under this section, a copy of (~~the~~) a positive test result with a declaration by the tester or medical review officer or breath alcohol technician stating the accuracy of the laboratory protocols followed to arrive at the test result is prima facie evidence;

(i) Of a (~~confirmed~~) verified positive drug test or positive alcohol confirmation test result;

(ii) That the motor carrier, employer, or consortium has a program that is subject to the federal requirements under 49 C.F.R. 40; and

(iii) That the medical review officer or breath alcohol technician making the report accurately followed the protocols for testing established to verify or confirm the results.

After the hearing, the department shall order the disqualification of the person either be rescinded or sustained.

(5) If the person does not request a hearing within the twenty-day time limit, or if the person fails to appear at a hearing, the person has waived the right to a hearing and the department shall sustain the disqualification.

(6) A decision by the department disqualifying a person from driving a commercial motor vehicle is stayed and does not take effect while a formal hearing is pending under this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation and the department receives no further report of a ~~((confirmed))~~ verified positive drug test or positive alcohol confirmation test during the pendency of the hearing and appeal. If the disqualification is sustained after the hearing, the person who is disqualified may file a petition in the superior court of the county of his or her residence to review the final order of disqualification by the department in the manner provided in RCW 46.20.334.

(7) The department of licensing may adopt rules specifying further requirements for requesting and conducting a hearing under this section.

(8) The department of licensing is not civilly liable for damage resulting from disqualifying a driver based on a ~~((confirmed))~~ verified positive drug test or positive alcohol confirmation test result as required by this section or for damage resulting from release of this information that occurs in the normal course of business.

Sec. 5. RCW 46.25.090 and 2004 c 187 s 7 are each amended to read as follows:

(1) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if a report has been received by the department pursuant to RCW 46.25.120, or if the person has been convicted of a first violation, within this or any other jurisdiction, of:

- (a) Driving a motor vehicle under the influence of alcohol or any drug;
- (b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more as determined by any testing methods approved by law in this state or any other state or jurisdiction;
- (c) Leaving the scene of an accident involving a motor vehicle driven by the person;
- (d) Using a motor vehicle in the commission of a felony;
- (e) Refusing to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle;
- (f) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle;

(g) Causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular homicide and negligent homicide.

If any of the violations set forth in this subsection occurred while transporting hazardous material, the person is disqualified for a period of not less than three years.

(2) A person is disqualified for life if it has been determined that the person has committed or has been convicted of two or more violations of any of the offenses specified in subsection (1) of this section, or any combination of those offenses, arising from two or more separate incidents.

(3) The department may adopt rules, in accordance with federal regulations, establishing guidelines, including conditions, under which a disqualification for life under subsection (2) of this section may be reduced to a period of not less than ten years.

(4) A person is disqualified from driving a commercial motor vehicle for life who uses a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by chapter 69.50 RCW, or possession with intent to manufacture, distribute, or dispense a controlled substance, as defined by chapter 69.50 RCW.

(5) A person is disqualified from driving a commercial motor vehicle for a period of:

(a) Not less than sixty days if:

(i) Convicted of or found to have committed a second serious traffic violation while driving a commercial motor vehicle; or

(ii) Convicted of reckless driving, where there has been a prior serious traffic violation; or

(b) Not less than one hundred twenty days if:

(i) Convicted of or found to have committed a third or subsequent serious traffic violation while driving a commercial motor vehicle; or

(ii) Convicted of reckless driving, where there has been two or more prior serious traffic violations.

For purposes of determining prior serious traffic violations under this subsection, each conviction of or finding that a driver has committed a serious traffic violation while driving a commercial motor vehicle or noncommercial motor vehicle, arising from a separate incident occurring within a three-year period, must be counted.

(6) A person is disqualified from driving a commercial motor vehicle for a period of:

(a) Not less than ninety days nor more than one year if convicted of or found to have committed a first violation of an out-of-service order while driving a commercial vehicle;

(b) Not less than one year nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed two violations of out-of-service orders while driving a commercial motor vehicle in separate incidents;

(c) Not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed three or more violations of out-of-service orders while driving commercial motor vehicles in separate incidents;

(d) Not less than one hundred eighty days nor more than two years if the person is convicted of or is found to have committed a first violation of an out-of-service order while transporting hazardous materials, or while operating

motor vehicles designed to transport sixteen or more passengers, including the driver. A person is disqualified for a period of not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver.

(7) A person is disqualified from driving a commercial motor vehicle if a report has been received by the department under RCW 46.25.125 that the person has received a ~~((confirmed))~~ verified positive drug test or positive alcohol confirmation test ~~((either))~~ as part of the testing program ~~((required by 49 C.F.R. 382 or))~~ conducted under 49 C.F.R. 40 ~~((or as part of a preemployment drug test))~~. A disqualification under this subsection remains in effect until the person undergoes a drug and alcohol assessment by ~~((an agency certified by the department of social and health services and, if the person is classified as an alcoholic, drug addict, alcohol abuser, or drug abuser, until))~~ a substance abuse professional meeting the requirements of 49 C.F.R. 40, and the person presents evidence of satisfactory participation in or successful completion of a drug or alcohol treatment and/or education program ~~((that has been certified by the department of social and health services under chapter 70.96A RCW))~~ as recommended by the substance abuse professional, and until the person has met the requirements of RCW 46.25.100. The ~~((agency making a drug and alcohol assessment under this section))~~ substance abuse professional shall forward a diagnostic evaluation and treatment recommendation to the department of licensing for use in determining the person's eligibility for driving a commercial motor vehicle. Persons who are disqualified under this subsection more than twice in a five-year period are disqualified for life.

(8)(a) A person is disqualified from driving a commercial motor vehicle for the period of time specified in (b) of this subsection if he or she is convicted of or is found to have committed one of the following six offenses at a railroad-highway grade crossing while operating a commercial motor vehicle in violation of a federal, state, or local law or regulation:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement officer at the crossing;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(b) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than sixty days if the driver is convicted of or is found to have committed a first violation of a railroad-highway grade crossing violation;

(ii) Not less than one hundred twenty days if the driver is convicted of or is found to have committed a second railroad-highway grade crossing violation in separate incidents within a three-year period;

(iii) Not less than one year if the driver is convicted of or is found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents within a three-year period.

(9) A person is disqualified from driving a commercial motor vehicle for not more than one year if a report has been received by the department from the federal motor carrier safety administration that the person's driving has been determined to constitute an imminent hazard as defined by 49 C.F.R. 383.5.

(10) Within ten days after suspending, revoking, or canceling a commercial driver's license or disqualifying a driver from operating a commercial motor vehicle, the department shall update its records to reflect that action.

Passed by the House April 20, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 326

[House Bill 1315]

REAL ESTATE EXCISE TAX—INFORMATION DISCLOSURE

AN ACT Relating to disclosure of information related to real estate excise taxes; reenacting and amending RCW 82.32.330; adding a new section to chapter 43.07 RCW; and adding a new section to chapter 82.45 RCW.

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

Sec. 1. RCW 82.32.330 and 2000 c 173 s 1 and 2000 c 106 s 1 are each reenacted and amended to read as follows:

(1) For purposes of this section:

(a) "Disclose" means to make known to any person in any manner whatever a return or tax information;

(b) "Return" means a tax or information return or claim for refund required by, or provided for or permitted under, the laws of this state which is filed with the department of revenue by, on behalf of, or with respect to a person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed;

(c) "Tax information" means (i) a taxpayer's identity, (ii) the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability deficiencies, overassessments, or tax payments, whether taken from the taxpayer's books and records or any other source, (iii) whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, (iv) a part of a written determination that is not designated as a precedent and disclosed pursuant to RCW 82.32.410, or a background file document relating to a written determination, and (v) other data received by, recorded by, prepared by, furnished to, or collected by the department of revenue with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of a person under the laws of this state for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense: PROVIDED, That data, material, or

documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Except as provided by RCW 82.32.410, nothing in this chapter shall require any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material, or documents so as to permit its disclosure;

(d) "State agency" means every Washington state office, department, division, bureau, board, commission, or other state agency;

(e) "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer; and

(f) "Department" means the department of revenue or its officer, agent, employee, or representative.

(2) Returns and tax information shall be confidential and privileged, and except as authorized by this section, neither the department of revenue nor any other person may disclose any return or tax information.

(3) ~~((The foregoing, however, shall))~~ This section does not prohibit the department of revenue from:

(a) Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:

(i) In respect of any tax imposed under the laws of this state if the taxpayer or its officer or other person liable under Title 82 RCW is a party in the proceeding; or

(ii) In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding;

(b) Disclosing, subject to such requirements and conditions as the director shall prescribe by rules adopted pursuant to chapter 34.05 RCW, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person: PROVIDED, That tax information not received from the taxpayer shall not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;

(c) Disclosing the name of a taxpayer with a deficiency greater than five thousand dollars and against whom a warrant under RCW 82.32.210 has been either issued or filed and remains outstanding for a period of at least ten working days. The department shall not be required to disclose any information under this subsection if a taxpayer: (i) Has been issued a tax assessment; (ii) has been issued a warrant that has not been filed; and (iii) has entered a deferred payment arrangement with the department of revenue and is making payments upon such deficiency that will fully satisfy the indebtedness within twelve months;

(d) Disclosing the name of a taxpayer with a deficiency greater than five thousand dollars and against whom a warrant under RCW 82.32.210 has been filed with a court of record and remains outstanding;

(e) Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

(f) Disclosing such return or tax information, for official purposes only, to the governor or attorney general, or to any state agency, or to any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions;

(g) Permitting the department of revenue's records to be audited and examined by the proper state officer, his or her agents and employees;

(h) Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the return or tax information originally was sought;

(i) Disclosing any such return or tax information to the proper officer of the internal revenue service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of this state;

(j) Disclosing any such return or tax information to the Department of Justice, the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury, the Department of Defense, the United States Customs Service, the Coast Guard of the United States, and the United States Department of Transportation, or any authorized representative thereof, for official purposes;

(k) Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

(l) Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers, North American industry classification system or standard industrial classification code of a taxpayer, and the dates of opening and closing of business. This subsection shall not be construed as giving authority to the department to give, sell, or provide access to any list of taxpayers for any commercial purpose;

(m) Disclosing such return or tax information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.17 RCW or is a document maintained by a court of record not otherwise prohibited from disclosure;

(n) Disclosing such return or tax information to the United States department of agriculture for the limited purpose of investigating food stamp fraud by retailers;

(o) Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the department for a filed tax warrant, judgment, or lien against the real property; (~~(o)~~)

(p) Disclosing to a person against whom the department has asserted liability as a successor under RCW 82.32.140 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded; or

(q) Disclosing such return or tax information in the possession of the department relating to the administration or enforcement of the real estate excise tax imposed under chapter 82.45 RCW, including information regarding transactions exempt or otherwise not subject to tax.

(4)(a) The department may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection (4). The disclosure must be in connection with the department's official duties relating to an audit, collection activity, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The department may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or checks. However, the department may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general journals, financial statements, expert's workpapers, income tax returns, state tax returns, tax return workpapers, or other similar data, materials, or documents.

(b) Before disclosure of any tax return or tax information under this subsection (4), the department shall, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence shall clearly identify the data, materials, or documents to be disclosed. The department may not disclose any tax return or tax information under this subsection (4) until the time period allowed in (c) of this subsection has expired or until the court has ruled on any challenge brought under (c) of this subsection.

(c) The person in possession of the data, materials, or documents to be disclosed by the department has twenty days from the receipt of the written request required under (b) of this subsection to petition the superior court of the county in which the petitioner resides for injunctive relief. The court shall limit or deny the request of the department if the court determines that:

(i) The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;

(ii) The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the department, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or

(iii) The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

(d) The department shall reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

(e) Requesting information under (b) of this subsection that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

(5) Any person acquiring knowledge of any return or tax information in the course of his or her employment with the department of revenue and any person acquiring knowledge of any return or tax information as provided under subsection (3)(f), (g), (h), (i), (j), or (n) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state, such person shall forfeit such office or employment and shall be incapable of holding any public office or employment in this state for a period of two years thereafter.

NEW SECTION. Sec. 2. A new section is added to chapter 43.07 RCW to read as follows:

(1) The secretary of state shall adopt rules requiring any entity that is required to file an annual report with the secretary of state, including entities under Titles 23, 23B, 24, and 25 RCW, to disclose any transfer in the controlling interest of the entity and any interest in real property.

(2) This information shall be made available to the department of revenue upon request for the purposes of tracking the transfer of the controlling interest in real property and to determine when the real estate excise tax is applicable in such cases.

(3) For the purposes of this section, "controlling interest" has the same meaning as provided in RCW 82.45.033.

NEW SECTION. Sec. 3. A new section is added to chapter 82.45 RCW to read as follows:

An organization that fails to report a transfer of the controlling interest in the organization under section 2 of this act to the secretary of state and is later determined to be subject to real estate excise taxes due to the transfer, shall be subject to the provisions of RCW 82.45.100 as well as the evasion penalty in RCW 82.32.090(6).

Passed by the House April 19, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 327

[House Bill 1330]

PUBLIC EMPLOYMENT RETIREMENT SYSTEMS

AN ACT Relating to technical corrections in the general retirement provisions estoppel section, teachers' retirement system, public safety employees' retirement system, the school employees' retirement system, the public employees' retirement system, and the actuarial funding chapter; amending RCW 41.04.270, 41.32.860, 41.34.070, 41.37.010, 41.37.020, 41.37.050, 41.37.250, 41.40.197, 41.40.850, and 41.50.088; reenacting RCW 41.45.070; repealing RCW

41.35.050, 41.37.040, 41.40.032, and 41.50.067; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 41.04.270 and 2001 c 180 s 4 are each amended to read as follows:

(1) (~~Notwithstanding any provision of~~) Except as provided in chapter 2.10, 2.12, 41.26, 41.28, 41.32, 41.35, 41.40, or 43.43 RCW ((to the contrary)), on and after March 19, 1976, any member or former member who (a) receives a retirement allowance earned by said former member as deferred compensation from any public retirement system authorized by the general laws of this state, or (b) is eligible to receive a retirement allowance from any public retirement system listed in RCW 41.50.030, but chooses not to apply, or (c) is the beneficiary of a disability allowance from any public retirement system listed in RCW 41.50.030 shall be estopped from becoming a member of or accruing any contractual rights whatsoever in any other public retirement system listed in RCW 41.50.030: PROVIDED, That (a) and (b) of this subsection shall not apply to persons who have accumulated less than fifteen years service credit in any such system.

(2) Nothing in this section is intended to apply to any retirement system except those listed in RCW 41.50.030 and the city employee retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b) of this section does not apply to a dual member as defined in RCW 41.54.010.

Sec. 2. RCW 41.32.860 and 2001 2nd sp.s. c 10 s 9 are each amended to read as follows:

(1) Except under RCW 41.32.862, no retiree shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, ~~((or))~~ 41.35.010, or 41.37.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused the suspension of benefits. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

Sec. 3. RCW 41.34.070 and 1998 c 117 s 1 are each amended to read as follows:

(1) If the member retires, becomes disabled, or otherwise terminates employment, the balance in the member's account may be distributed in accordance with an option selected by the member either as a lump sum or pursuant to other options authorized by the board.

(2) If the member dies while in service, the balance of the member's account may be distributed in accordance with an option selected by the member either as a lump sum or pursuant to other options authorized by the board. The distribution is as follows:

(a) The distribution shall be made to such person or persons as the member shall have nominated by written designation duly executed and filed with the department~~((:))~~;

(b) If there be no such designated person or persons still living at the time of the member's death, the balance of the member's account in the retirement

system, less any amount identified as owing to an obligee upon withdrawal of such account balance pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation~~((or))~~;

(c) If there is no surviving spouse, then to such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(d) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(3) If a member has a terminal illness and terminates from employment, the member may choose to have the balance in the member's account distributed as a lump sum payment based on the most recent valuation in order to expedite the distribution. The department shall make this payment within ten working days after receipt of notice of termination of employment, documentation verifying the terminal illness, and an application for payment.

(4) The distribution under subsections (1), (2), or (3) of this section shall be less any amount identified as owing to an obligee upon withdrawal pursuant to a court order filed under RCW 41.50.670.

Sec. 4. RCW 41.37.010 and 2004 c 242 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) "Retirement system" means the Washington public safety employees' retirement system provided for in this chapter.

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

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

(4) "Employer" means the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, the Washington state liquor control board, county corrections departments, ~~((and))~~ city corrections departments not covered under chapter 41.28 RCW, or other employers employing statewide elective officials.

(5) "Member" means any employee employed by an employer on a full-time, fully compensated basis within the following job classes in effect as of January 1, 2004: City corrections officers, jailers, police support officers, custody officers, and bailiffs; county corrections officers, jailers, custody officers, and sheriffs corrections officers; county probation officers and probation counselors; state correctional officers, correctional sergeants, and community corrections officers; liquor enforcement officers; park rangers; commercial vehicle enforcement officers; and gambling special agents.

(6)(a) "Compensation earnable" for members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement, which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided in this subsection, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.37.070;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(7) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(a) Service in any state elective position shall be deemed to be full-time service.

(b) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(8) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(9) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(10) "Membership service" means all service rendered as a member.

(11) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12) "Regular interest" means such rate as the director may determine.

(13) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(14) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.37.290.

(15) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(16) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(17) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(18) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(19) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(20) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(21) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(22) "Eligible position" means any permanent, full-time, fully compensated position included in subsection (5) of this section.

(23) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (22) of this section.

(24) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(25) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

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

(27) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

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

(29) "Plan" means the Washington public safety employees' retirement system plan 2.

(30) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(31) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(32) "Index B" means the index for the year prior to index A.

(33) "Adjustment ratio" means the value of index A divided by index B.

(34) "Separation from service" occurs when a person has terminated all employment with an employer.

Sec. 5. RCW 41.37.020 and 2004 c 242 s 4 are each amended to read as follows:

Membership in the retirement system shall consist of all regularly compensated public safety employees who are members as defined in RCW 41.37.010(5), with the following exceptions:

(1) Persons in ineligible positions;

(2)(a) Persons holding elective offices or persons appointed directly by the governor to statewide elective offices: PROVIDED, That such persons shall have the option of ~~((applying for))~~ continuing membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file on a form supplied by the department a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective

service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (2)(b);

(3) Retirement system retirees: PROVIDED, That following reemployment in an eligible position, a retiree may elect to prospectively become a member of the retirement system if otherwise eligible;

(4) Persons enrolled in state-approved apprenticeship programs, authorized under chapter 49.04 RCW, and who are employed by employers to earn hours to complete such apprenticeship programs, if the employee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or if the employee is a member of a Taft-Hartley retirement plan;

(5) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession; and

(6) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position.

Sec. 6. RCW 41.37.050 and 2004 c 242 s 8 are each amended to read as follows:

(1)(a) If a retiree enters employment in an eligible position with an employer as defined in this chapter sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) If a retiree enters employment in an eligible position with an employer as defined in chapter 41.32, 41.35, or 41.40 RCW sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(c) The benefit reduction provided in (a) and (b) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours per calendar year in an eligible position as defined in RCW 41.32.010, 41.35.010, or 41.40.010, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under this chapter, he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with this chapter. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula

and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

Sec. 7. RCW 41.37.250 and 2004 c 242 s 31 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 that member's credit in the retirement system at the time of the 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 the person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there is no designated person or persons still living at the time of the member's death, the member's accumulated contributions standing to the 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 as if in fact that spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.37.210, 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 41.37.170 and, except under subsection (4) of this section, if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.37.210; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then the child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until the child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, the member's child or children under the age of majority shall receive an allowance, share and share alike, calculated under this section making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) 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.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies and is not survived by a spouse or 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 a person or persons, estate, 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 designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) A member who is killed in the course of employment, as determined by the director of the department of labor and industries, is not subject to ~~((an actuarial))~~ reduction under RCW 41.37.210. The member's retirement allowance is computed under RCW 41.37.190.

Sec. 8. RCW 41.40.197 and 1995 c 345 s 5 are each amended to read as follows:

(1) Beginning July 1, 1995, and annually thereafter, the retirement allowance of a person meeting the requirements of this section shall be increased by the annual increase amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary who has received a retirement allowance for at least one year and has attained at least age sixty-six by July 1st in the calendar year in which the annual increase is given; or

(b) A beneficiary whose retirement allowance is lower than the minimum benefit provided under RCW 41.40.1984.

~~(3) ((The following persons shall also be eligible for the benefit provided in subsection (1) of this section:~~

~~(a) A beneficiary receiving the minimum benefit on June 30, 1995, under RCW 41.40.198; or~~

~~(b) A recipient of a survivor benefit on June 30, 1995, which has been increased by RCW 41.40.325.~~

~~(4))~~ If otherwise eligible, those receiving an annual adjustment under RCW 41.40.188(1)(c) shall be eligible for the annual increase adjustment in addition to the benefit that would have been received absent this section.

~~((5))~~ (4) Those receiving a benefit under RCW 41.40.220(1), or a survivor of a disabled member under RCW 41.44.170(5) shall be eligible for the benefit provided by this section.

~~((6))~~ (5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this postretirement adjustment not granted prior to that time.

Sec. 9. RCW 41.40.850 and 2000 c 247 s 315 are each amended to read as follows:

(1) Except as provided in RCW 41.40.037, no retiree under the provisions of plan 3 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, ~~((or))~~ 41.35.010, or 41.37.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official of a city or town.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section.

Sec. 10. RCW 41.45.070 and 2003 c 92 s 5 are each reenacted to read as follows:

(1) In addition to the basic employer contribution rate established in RCW 41.45.060 or 41.45.054, the department shall also charge employers of public employees' retirement system, teachers' retirement system, school employees' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems. Except as provided in subsections (6) and (7) of this section, the supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) In addition to the basic member, employer, and state contribution rate established in RCW 41.45.0604 for the law enforcement officers' and fire fighters' retirement system plan 2, the department shall also establish supplemental rates to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and fire fighters' retirement system plan 2. Except as provided in subsection (6) of this section, these supplemental rates shall be calculated by the actuary retained by the law enforcement officers' and fire fighters' board and the state actuary through the process provided in RCW 41.26.720(1)(a) and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and Washington state patrol retirement system, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit not later than June 30, 2024.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan 2 and plan 3, the teachers' retirement system plan 2 and plan 3, or the school employees' retirement system plan 2 and plan 3 shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan 1 and the teachers' retirement system plan 1 shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024.

(6) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 340, Laws of 1998.

(7) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 41.31A RCW; section 309, chapter 341, Laws of 1998; or section 701, chapter 341, Laws of 1998.

NEW SECTION. Sec. 11. The following acts or parts of acts are each repealed:

(1) RCW 41.35.050 (Information furnished by employees, appointive and elective officials) and 1998 c 341 s 6;

(2) RCW 41.37.040 (Employee information—Required) and 2004 c 242 s 7;

(3) RCW 41.40.032 (Information furnished by employees, appointive and elective officials) and 1991 c 35 s 76, 1949 c 240 s 8, & 1947 c 274 s 1;

(4) 2003 1st sp.s. c 11 s 3; and

(5) RCW 41.50.067 (Adopted employer rates—Notification to employers) and 1993 c 519 s 21.

NEW SECTION. Sec. 12. Sections 4 through 7 of this act take effect July 1, 2006.

NEW SECTION. Sec. 13. Section 10 of this act expires July 1, 2006.

Sec. 14. RCW 41.50.088 and 2000 c 247 s 602 are each amended to read as follows:

(1) The board shall adopt rules as necessary and exercise the following powers and duties:

(a) The board shall recommend to the state investment board types of options for member self-directed investment in the teachers' retirement system plan 3, the school employees' retirement system plan 3, and the public employees' retirement system plan 3 as deemed by the board to be reflective of the members' preferences;

(b) By July 1, 2005, subject to favorable tax determination by the Internal Revenue Service, the board shall make optional actuarially equivalent life annuity benefit payment schedules available to members and survivors that may be purchased from the combined plan 2 and plan 3 funds under RCW 41.50.075; and

(c) Determination of the basis for administrative charges to the self-directed investment fund to offset self-directed account expenses;

(2) The board shall recommend to the state investment board types of options for participant self-directed investment in the state deferred compensation plan, as deemed by the board to be reflective of the participants' preferences.

Passed by the House April 19, 2005.

Passed by the Senate April 5, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 328

[Second Substitute House Bill 1565]

MULTIMODAL TRANSPORTATION STRATEGIES

AN ACT Relating to multimodal concurrency strategies; amending RCW 47.80.030; adding a new section to chapter 36.70A RCW; and creating a new section.

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

NEW SECTION. Sec. 1. A new section is added to chapter 36.70A RCW to read as follows:

(1) The transportation element required by RCW 36.70A.070 may include, in addition to improvements or strategies to accommodate the impacts of development authorized under RCW 36.70A.070(6)(b), multimodal transportation improvements or strategies that are made concurrent with the development. These transportation improvements or strategies may include, but are not limited to, measures implementing or evaluating:

(a) Multiple modes of transportation with peak and nonpeak hour capacity performance standards for locally owned transportation facilities; and

(b) Modal performance standards meeting the peak and nonpeak hour capacity performance standards.

(2) Nothing in this section or RCW 36.70A.070(6)(b) shall be construed as prohibiting a county or city planning under RCW 36.70A.040 from exercising existing authority to develop multimodal improvements or strategies to satisfy the concurrency requirements of this chapter.

(3) Nothing in this section is intended to affect or otherwise modify the authority of jurisdictions planning under RCW 36.70A.040.

Sec. 2. RCW 47.80.030 and 1998 c 171 s 9 are each amended to read as follows:

(1) Each regional transportation planning organization shall develop in cooperation with the department of transportation, providers of public transportation and high capacity transportation, ports, and local governments within the region, adopt, and periodically update a regional transportation plan that:

(a) Is based on a least cost planning methodology that identifies the most cost-effective facilities, services, and programs;

(b) Identifies existing or planned transportation facilities, services, and programs, including but not limited to major roadways including state highways and regional arterials, transit and nonmotorized services and facilities, multimodal and intermodal facilities, marine ports and airports, railroads, and noncapital programs including transportation demand management that should function as an integrated regional transportation system, giving emphasis to those facilities, services, and programs that exhibit one or more of the following characteristics:

(i) Crosses member county lines;

(ii) Is or will be used by a significant number of people who live or work outside the county in which the facility, service, or project is located;

(iii) Significant impacts are expected to be felt in more than one county;

(iv) Potentially adverse impacts of the facility, service, program, or project can be better avoided or mitigated through adherence to regional policies;

(v) Transportation needs addressed by a project have been identified by the regional transportation planning process and the remedy is deemed to have regional significance; and

(vi) Provides for system continuity;

(c) Establishes level of service standards for state highways and state ferry routes, with the exception of transportation facilities of statewide significance as defined in RCW 47.06.140. These regionally established level of service standards for state highways and state ferries shall be developed jointly with the department of transportation, to encourage consistency across jurisdictions. In establishing level of service standards for state highways and state ferries, consideration shall be given for the necessary balance between providing for the free interjurisdictional movement of people and goods and the needs of local commuters using state facilities;

(d) Includes a financial plan demonstrating how the regional transportation plan can be implemented, indicating resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommending any innovative financing techniques to finance needed facilities, services, and programs;

(e) Assesses regional development patterns, capital investment and other measures necessary to:

(i) Ensure the preservation of the existing regional transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit, railroad systems and corridors, and nonmotorized facilities; and

(ii) Make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods;

(f) Sets forth a proposed regional transportation approach, including capital investments, service improvements, programs, and transportation demand management measures to guide the development of the integrated, multimodal regional transportation system. For regional growth centers, the approach must address transportation concurrency strategies required under RCW 36.70A.070 and include a measurement of vehicle level of service for off-peak periods and total multimodal capacity for peak periods; and

(g) Where appropriate, sets forth the relationship of high capacity transportation providers and other public transit providers with regard to responsibility for, and the coordination between, services and facilities.

(2) The organization shall review the regional transportation plan biennially for currency and forward the adopted plan along with documentation of the biennial review to the state department of transportation.

(3) All transportation projects, programs, and transportation demand management measures within the region that have an impact upon regional facilities or services must be consistent with the plan and with the adopted regional growth and transportation strategies.

NEW SECTION. Sec. 3. (1)(a) The department of transportation shall administer a study to examine multimodal transportation improvements and strategies to comply with the concurrency requirements of RCW 36.70A.070(6), subject to the availability of amounts appropriated for this specific purpose. The study shall be completed by one or more regional transportation planning

organizations established under chapter 47.80 RCW electing to participate in the study.

(b) The department of community, trade, and economic development shall provide technical assistance with the study to the department of transportation and participating regional transportation planning organizations.

(2) The department of transportation shall, in consultation with members from each of the two largest caucuses of the senate, appointed by the president of the senate, and members from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives, approve the scope of the study established by this section.

(3) The study shall, at a minimum, include:

(a) An assessment and comprehensive summary of studies or reports examining concurrency requirements and practices in Washington;

(b) An examination of existing or proposed multimodal transportation improvements or strategies employed by a city in a county with a population of one million or more residents;

(c) An examination of transit services and how these services promote multimodal transportation improvements or strategies for jurisdictions planning under RCW 36.70A.070(6)(b);

(d) Recommendations for statutory and administrative rule changes that will further the promotion of effective multimodal transportation improvements and strategies that are consistent with the provisions of RCW 36.70A.070 and 36.70A.020(3);

(e) Recommendations for improving the coordination of concurrency practices in jurisdictions subject to RCW 36.70A.215;

(f) Recommendations on a methodology that jurisdictions may use to evaluate the effectiveness of multimodal concurrency strategies in jurisdictions subject to the provisions of RCW 36.70A.070 and 36.70A.020(3);

(g) An identification of effective multimodal transportation improvements and strategies employed by jurisdictions subject to RCW 36.70A.215;

(h) Recommendations for model multimodal transportation improvements and strategies that may be employed by counties and cities; and

(i) An examination of multimodal infrastructure needs, such as bus pull outs and pedestrian crosswalks and overpasses, and how these needs can be better identified in the plans required by RCW 36.70A.070(6).

(4) The department of transportation shall, in coordination with participating regional transportation planning organizations completing the study established by this section, submit a report of findings and recommendations to the appropriate committees of the legislature by December 31, 2006.

Passed by the House April 24, 2005.

Passed by the Senate April 22, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 329

[House Bill 1864]

TOLL CHARGES—CITIZENS ADVISORY COMMITTEE

AN ACT Relating to citizen advisory committees for toll charge oversight; amending RCW 47.46.090; and adding a new section to chapter 47.46 RCW.

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

Sec. 1. RCW 47.46.090 and 2002 c 114 s 6 are each amended to read as follows:

(1) A citizen advisory committee must be created for any project developed under this chapter that imposes toll charges for use of a transportation facility. The governor shall appoint nine members to the committee, all of whom must be permanent residents of the affected project area(~~(-as that term is used in RCW 47.46.030))~~ as defined for each project. Members of the committee shall serve without compensation.

(2) The citizen advisory committee shall serve in an advisory capacity to the commission on all matters related to the imposition of tolls(~~(- Members of the committee shall serve without compensation))~~ including, but not limited to, (a) the feasibility of providing discounts to frequent users, electronic transponder users, senior citizens, or students; (b) the tradeoff of lower tolls versus the early retirement of debt; and (c) a consideration of variable, or time of day pricing.

(3) No toll charge may be imposed or modified unless the citizen advisory committee has been given at least twenty days to review and comment on any proposed toll charge schedule. In setting toll rates, the commission shall give consideration to any recommendations of the citizen advisory committee.

NEW SECTION. **Sec. 2.** A new section is added to chapter 47.46 RCW to read as follows:

The Tacoma Narrows bridge citizen advisory committee is hereby created as directed under RCW 47.46.090. The advisory committee members shall be appointed proportionately, to the extent practicable, from those areas from which the majority of the trips originate on the bridge according to the latest traffic analysis by the department.

Passed by the House April 18, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 330

[Substitute House Bill 1995]

CAPITOL CAMPUS—PUBLIC AND HISTORIC FACILITIES

AN ACT Relating to stewardship of state capitol public and historic facilities; amending RCW 43.01.090, 43.19.500, and 79.24.087; and adding new sections to chapter 79.24 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 79.24 RCW to read as follows:

The legislature finds that the historic facilities of the Washington state capitol are the most important public facilities in the state. They are a source of

beauty and pride, a resource for celebrating our heritage and democratic ideals, and an exceptional educational resource. The public and historic facilities of the state capitol campus should be managed and maintained to the highest standards of excellence, model the best of historic preservation practice, and maximize opportunities for public access and enjoyment. The purpose of this act is to provide authority and direction for the care and stewardship of the public and historic facilities of the state capitol, to facilitate public access, use, and enjoyment of these assets, and to carefully preserve them for the benefit of future generations.

NEW SECTION. Sec. 2. A new section is added to chapter 79.24 RCW to read as follows:

For the purposes of sections 3 and 4 of this act, and RCW 43.01.090, 43.19.500, and 79.24.087, "state capitol public and historic facilities" includes:

(1) The east, west and north capitol campus grounds, Sylvester park, Heritage park, Marathon park, Centennial park, the Deschutes river basin commonly known as Capitol lake, the interpretive center, Deschutes parkway, and the landscape, memorials, artwork, fountains, streets, sidewalks, lighting, and infrastructure in each of these areas not including state-owned aquatic lands in these areas managed by the department of natural resources under RCW 79.90.450;

(2) The public spaces and the historic interior and exterior elements of the following buildings: The visitor center, the Governor's mansion, the legislative building, the John L. O'Brien building, the Cherberg building, the Newhouse building, the Pritchard building, the temple of justice, the insurance building, the Dolliver building, capitol court, and the old capitol buildings, including the historic state-owned furnishings and works of art commissioned for or original to these buildings; and

(3) Other facilities or elements of facilities as determined by the state capitol committee, in consultation with the department of general administration.

NEW SECTION. Sec. 3. A new section is added to chapter 79.24 RCW to read as follows:

The department of general administration is responsible for the stewardship, preservation, operation, and maintenance of the public and historic facilities of the state capitol, subject to the policy direction of the state capitol committee and the legislative buildings committee as created in chapter . . . (House Bill No. 1301), Laws of 2005, and the guidance of the capitol campus design advisory committee. In administering this responsibility, the department shall:

(1) Apply the United States secretary of the interior's standards for the treatment of historic properties;

(2) Seek to balance the functional requirements of state government operations with public access and the long-term preservation needs of the properties themselves; and

(3) Consult with the capitol furnishings preservation committee, the state historic preservation officer, the state arts commission, and the state facilities accessibility advisory committee in fulfilling the responsibilities provided for in this section.

NEW SECTION. Sec. 4. A new section is added to chapter 79.24 RCW to read as follows:

(1) To provide for responsible stewardship of the state capitol public and historic facilities, funding for:

(a) Maintenance and operational needs shall be authorized in the state's omnibus appropriations act and funded by the general administration services account as provided under RCW 43.19.500;

(b) Development and preservation needs shall be authorized in the state's capital budget. To the extent revenue is available, the capitol building construction account under RCW 79.24.087 shall fund capital budget needs. If capitol building construction account funds are not available, the state building construction account funds may be authorized for this purpose.

(2) The department of general administration may seek grants, gifts, or donations to support the stewardship of state capitol public and historic facilities. The department may: (a) Purchase historic state capitol furnishings or artifacts; or (b) sell historic state capitol furnishings and artifacts that have been designated as state surplus by the capitol furnishings preservation committee under RCW 27.48.040(6). Funds generated from grants, gifts, donations, or sales for omnibus appropriations act needs shall be deposited into the general administration services account. Funds generated for capital budget needs shall be deposited into the capitol building construction account.

Sec. 5. RCW 43.01.090 and 2002 c 162 s 1 are each amended to read as follows:

The director of general administration may assess a charge or rent against each state board, commission, agency, office, department, activity, or other occupant or user for payment of a proportionate share of costs for occupancy of buildings, structures, or facilities including but not limited to all costs of acquiring, constructing, operating, and maintaining such buildings, structures, or facilities and the repair, remodeling, or furnishing thereof and for the rendering of any service or the furnishing or providing of any supplies, equipment, historic furnishings, or materials.

The director of general administration may recover the full costs including appropriate overhead charges of the foregoing by periodic billings as determined by the director including but not limited to transfers upon accounts and advancements into the general administration services account. Charges related to the rendering of real estate services under RCW 43.82.010 and to the operation (~~(of nonassigned public spaces in Thurston county)~~) and maintenance of public and historic facilities at the state capitol, as defined in section 2 of this act, shall be allocated separately from other charges assessed under this section. Rates shall be established by the director of general administration after consultation with the director of financial management. The director of general administration may allot, provide, or furnish any of such facilities, structures, services, equipment, supplies, or materials to any other public service type occupant or user at such rates or charges as are equitable and reasonably reflect the actual costs of the services provided: PROVIDED, HOWEVER, That the legislature, its duly constituted committees, interim committees and other committees shall be exempted from the provisions of this section.

Upon receipt of such bill, each entity, occupant, or user shall cause a warrant or check in the amount thereof to be drawn in favor of the department of general administration which shall be deposited in the state treasury to the credit of the

general administration services account unless the director of financial management has authorized another method for payment of costs.

Beginning July 1, 1995, the director of general administration shall assess a capital projects surcharge upon each agency or other user occupying a facility owned and managed by the department of general administration in Thurston county, excluding state capitol public and historic facilities, as defined in section 2 of this act. The capital projects surcharge does not apply to agencies or users that agree to pay all future repairs, improvements, and renovations to the buildings they occupy and a proportional share, as determined by the office of financial management, of all other campus repairs, installations, improvements, and renovations that provide a benefit to the buildings they occupy or that have an agreement with the department of general administration that contains a charge for a similar purpose, including but not limited to RCW 43.01.091, in an amount greater than the capital projects surcharge. Beginning July 1, 2002, the capital projects surcharge does not apply to department of services for the blind vendors who operate cafeteria services in facilities owned and managed by the department of general administration; the department shall consider this space to be a common area for purposes of allocating the capital projects surcharge to other building tenants beginning July 1, 2003. The director, after consultation with the director of financial management, shall adopt differential capital project surcharge rates to reflect the differences in facility type and quality. The initial payment structure for this surcharge shall be one dollar per square foot per year. The surcharge shall increase over time to an amount that when combined with the facilities and service charge equals the market rate for similar types of lease space in the area or equals five dollars per square foot per year, whichever is less. The capital projects surcharge shall be in addition to other charges assessed under this section. Proceeds from the capital projects surcharge shall be deposited into the Thurston county capital facilities account created in RCW 43.19.501.

Sec. 6. RCW 43.19.500 and 1998 c 105 s 9 are each amended to read as follows:

The general administration services account shall be used by the department of general administration for the payment of certain costs, expenses, and charges, as specified in this section, incurred by it in the operation and administration of the department in the rendering of services, the furnishing or supplying of equipment, supplies and materials, and for providing or allocating facilities, including the operation, maintenance, rehabilitation, or furnishings thereof to other agencies, offices, departments, activities, and other entities enumerated in RCW 43.01.090 and including the rendering of services in acquiring real estate under RCW 43.82.010 and the operation and maintenance of ~~((nonassigned public spaces in Thurston county))~~ public and historic facilities at the state capitol, as defined in section 2 of this act. The department shall treat the rendering of services in acquiring real estate and the operation and maintenance of ~~((nonassigned public spaces))~~ state capitol public and historic facilities as separate operating entities within the account for financial accounting and control.

The schedule of services, facilities, equipment, supplies, materials, maintenance, rehabilitation, furnishings, operations, and administration to be so financed and recovered shall be determined jointly by the director of general

administration and the director of financial management, in equitable amounts which, together with any other income or appropriation, will provide the department of general administration with funds to meet its anticipated expenditures during any allotment period.

The director of general administration may adopt rules governing the provisions of RCW 43.01.090 and this section and the relationships and procedures between the department of general administration and such other entities.

Sec. 7. RCW 79.24.087 and 1923 c 12 s 1 are each amended to read as follows:

All revenues received from leases and sales of lands, timber and other products on the surface or beneath the surface of the lands granted to the state of Washington by the United States pursuant to an act of Congress approved February 22, 1889, for capitol building purposes, shall be paid into the "capitol building construction account". Available revenues in this account shall first be pledged to state capitol public and historic facilities as defined under section 2 of this act.

Passed by the House April 18, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 331

[House Bill 1999]

TRAFFIC INFRACTIONS—VEHICLE TITLE, IDENTIFICATION

AN ACT Relating to clarifying civil liability for traffic infractions when vehicle title is transferred; amending RCW 46.12.102; and adding a new section to chapter 46.63 RCW.

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

Sec. 1. RCW 46.12.102 and 2002 c 279 s 2 are each amended to read as follows:

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

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

(b) When the owner has delivered to the department either a properly filed report of sale that includes all of the information required in RCW 46.12.101(1) and is delivered to the department within five days of the sale of the vehicle excluding Saturdays, Sundays, and state and federal holidays, or appropriate documents for registration of the vehicle pursuant to the sale or transfer.

(2) An owner who has made a bona fide sale or transfer of a vehicle, has delivered possession of it to a purchaser, and has fulfilled the requirements of subsection (1)(a) and (b) of this section is relieved of liability and liability is

transferred to the purchaser of the vehicle, for any traffic violation under this title, whether designated as a traffic infraction or classified as a criminal offense, that occurs after the date of the sale or transfer that is based on the vehicle's identification, including, but not limited to, parking infractions, high-occupancy toll lane violations, and violations recorded by automated traffic safety cameras.

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

NEW SECTION, Sec. 2. A new section is added to chapter 46.63 RCW to read as follows:

(1) In the event a traffic infraction is based on a vehicle's identification, and the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction may be issued, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within thirty days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction. In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

(2) For the purpose of this section, a "traffic infraction based on a vehicle's identification" includes, but is not limited to, parking infractions, high-occupancy toll lane violations, and violations recorded by automated traffic safety cameras.

Passed by the House April 19, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 332

[Substitute Senate Bill 5052]

UNIFORM ESTATE TAX APPORTIONMENT

AN ACT Relating to uniform estate tax apportionment; adding a new chapter to Title 83 RCW; creating a new section; repealing RCW 83.110.010, 83.110.020, 83.110.030, 83.110.040, 83.110.050, 83.110.060, 83.110.070, 83.110.080, 83.110.090, 83.110.900, 83.110.901, 83.110.902, 83.110.903, and 83.110.904; and providing an effective date.

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

NEW SECTION, Sec. 1. SHORT TITLE. This chapter may be cited as the Washington Uniform Estate Tax Apportionment Act of 2005.

NEW SECTION, Sec. 2. DEFINITIONS. The following definitions apply throughout this chapter unless the context clearly requires otherwise.

(1) "Apportionable estate" means the value of the gross estate as finally determined for purposes of the estate tax to be apportioned reduced by:

- (a) Any claim or expense allowable as a deduction for purposes of the tax;
- (b) The value of any interest in property that, for purposes of the tax, qualifies for a marital or charitable deduction or otherwise is deductible or is exempt; and
- (c) Any amount added to the decedent's gross estate because of a gift tax on transfers made before death.

(2) "Estate tax" means a federal, state, or foreign tax imposed because of the death of an individual and interest and penalties associated with the tax. The term does not include an inheritance tax, income tax, or generation-skipping transfer tax other than a generation-skipping transfer tax incurred on a direct skip taking effect at death.

(3) "Gross estate" means, with respect to an estate tax, all interests in property subject to the tax.

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

(5) "Ratable" means apportioned or allocated pro rata according to the relative values of interests to which the term is to be applied. "Ratably" has a corresponding meaning.

(6) "Time-limited interest" means an interest in property which terminates on a lapse of time or on the occurrence or nonoccurrence of an event or which is subject to the exercise of discretion that could transfer a beneficial interest to another person. The term does not include a cotenancy unless the cotenancy itself is a time-limited interest.

(7) "Value" means, with respect to an interest in property, fair market value as finally determined for purposes of the estate tax that is to be apportioned, reduced by any outstanding debt secured by the interest without reduction for taxes paid or required to be paid or for any special valuation adjustment.

(8) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended or renumbered as of January 1, 2005.

NEW SECTION. Sec. 3. APPORTIONMENT BY WILL OR OTHER DISPOSITIVE INSTRUMENT. (1) Except as otherwise provided in subsection (3) of this section, the following rules apply:

(a) To the extent that a provision of a decedent's will provides for the apportionment of an estate tax, the tax must be apportioned accordingly.

(b) Any portion of an estate tax not apportioned pursuant to (a) of this subsection must be apportioned in accordance with any provision of a revocable trust of which the decedent was the settlor which provides for the apportionment of an estate tax. If conflicting apportionment provisions appear in two or more revocable trust instruments, the provision in the most recently dated instrument prevails. For purposes of this subsection (1)(b):

(i) A trust is revocable if it was revocable immediately after the trust instrument was executed, even if the trust subsequently becomes irrevocable; and

(ii) The date of an amendment to a revocable trust instrument is the date of the amended instrument only if the amendment contains an apportionment provision.

(c) If any portion of an estate tax is not apportioned pursuant to (a) or (b) of this subsection, and a provision in any other dispositive instrument provides that any interest in the property disposed of by the instrument is or is not to be applied to the payment of the estate tax attributable to the interest disposed of by the instrument, the provision controls the apportionment of the tax to that interest.

(2) Subject to subsection (3) of this section, and unless the decedent provides to the contrary, the following rules apply:

(a) If an apportionment provision provides that a person receiving an interest in property under an instrument is to be exonerated from the responsibility to pay an estate tax that would otherwise be apportioned to the interest:

(i) The tax attributable to the exonerated interest must be apportioned among the other persons receiving interests passing under the instrument; or

(ii) If the values of the other interests are less than the tax attributable to the exonerated interest, the deficiency must be apportioned ratably among the other persons receiving interests in the apportionable estate that are not exonerated from apportionment of the tax.

(b) If an apportionment provision provides that an estate tax is to be apportioned to an interest in property a portion of which qualifies for a marital or charitable deduction, the estate tax must first be apportioned ratably among the holders of the portion that does not qualify for a marital or charitable deduction and then apportioned ratably among the holders of the deductible portion to the extent that the value of the nondeductible portion is insufficient.

(c) Except as otherwise provided in (d) of this subsection, if an apportionment provision provides that an estate tax be apportioned to property in which one or more time-limited interests exist, other than interests in specified property under section 7 of this act, the tax must be apportioned to the principal of that property, regardless of the deductibility of some of the interests in that property.

(d) If an apportionment provision provides that an estate tax is to be apportioned to the holders of interests in property in which one or more time-limited interests exist and a charity has an interest that otherwise qualifies for an estate tax charitable deduction, the tax must first be apportioned, to the extent feasible, to interests in property that have not been distributed to the persons entitled to receive the interests. No tax shall be paid from a charitable remainder annuity trust or a charitable remainder unitrust described in section 664 of the Internal Revenue Code and created during the decedent's life.

(3) A provision that apportions an estate tax is ineffective to the extent that it increases the tax apportioned to a person having an interest in the gross estate over which the decedent had no power to transfer immediately before the decedent executed the instrument in which the apportionment direction was made. For purposes of this section, a testamentary power of appointment is a power to transfer the property that is subject to the power.

NEW SECTION. Sec. 4. STATUTORY APPORTIONMENT OF ESTATE TAXES. To the extent that apportionment of an estate tax is not controlled by an

instrument described in section 3 of this act and except as otherwise provided in sections 6 and 7 of this act, the following rules apply:

(1) Subject to subsections (2), (3), and (4) of this section, the estate tax is apportioned ratably to each person that has an interest in the apportionable estate.

(2) A generation-skipping transfer tax incurred on a direct skip taking effect at death is charged to the person to which the interest in property is transferred.

(3) If property is included in the decedent's gross estate because of section 2044 of the Internal Revenue Code or any similar estate tax provision, the difference between the total estate tax for which the decedent's estate is liable and the amount of estate tax for which the decedent's estate would have been liable if the property had not been included in the decedent's gross estate is apportioned ratably among the holders of interests in the property. The balance of the tax, if any, is apportioned ratably to each other person having an interest in the apportionable estate.

(4) Except as otherwise provided in section 3(2)(d) of this act and except as to property to which section 7 of this act applies, an estate tax apportioned to persons holding interests in property subject to a time-limited interest must be apportioned, without further apportionment, to the principal of that property.

(5) If the court finds that it is inequitable to apportion interest and penalties in the manner provided in this chapter because of special circumstances, it may direct apportionment thereon in the manner it finds equitable.

NEW SECTION. Sec. 5. CREDITS AND DEFERRALS. Except as otherwise provided in sections 6 and 7 of this act, the following rules apply to credits and deferrals of estate taxes:

(1) A credit resulting from the payment of gift taxes or from estate taxes paid on property previously taxed inures ratably to the benefit of all persons to which the estate tax is apportioned.

(2) A credit for state or foreign estate taxes inures ratably to the benefit of all persons to which the estate tax is apportioned, except that the amount of a credit for a state or foreign tax paid by a beneficiary of the property on which the state or foreign tax was imposed, directly or by a charge against the property, inures to the benefit of the beneficiary.

(3) If payment of a portion of an estate tax is deferred because of the inclusion in the gross estate of a particular interest in property, the benefit of the deferral inures ratably to the persons to which the estate tax attributable to the interest is apportioned. The burden of any interest charges incurred on a deferral of taxes and the benefit of any tax deduction associated with the accrual or payment of the interest charge is allocated ratably among the persons receiving an interest in the property.

NEW SECTION. Sec. 6. INSULATED PROPERTY—ADVANCEMENT OF TAX. (1) As used in this section:

(a) "Advanced fraction" means a fraction that has as its numerator the amount of the advanced tax and as its denominator the value of the interests in insulated property to which that tax is attributable.

(b) "Advanced tax" means the aggregate amount of estate tax attributable to interests in insulated property which is required to be advanced by uninsulated holders under subsection (3) of this section.

(c) "Insulated property" means property subject to a time-limited interest which is included in the apportionable estate and is unavailable for payment of an estate tax because of impossibility or impracticability. Insulated property does not include property from which the beneficial holder has the unilateral right to cause distribution to himself or herself.

(d) "Uninsulated holder" means a person who has an interest in uninsured property.

(e) "Uninsulated property" means property included in the apportionable estate other than insulated property.

(2) If an estate tax is to be advanced pursuant to subsection (3) of this section by persons holding interests in uninsured property subject to a time-limited interest other than property to which section 7 of this act applies, the tax must be advanced, without further apportionment, from the principal of the uninsured property.

(3) Subject to section 9 (2) and (4) of this act, an estate tax attributable to interests in insulated property must be advanced ratably by uninsured holders.

(4) A court having jurisdiction to determine the apportionment of an estate tax may require a beneficiary of an interest in insulated property to pay all or part of the estate tax otherwise apportioned to the interest if the court finds that it would be substantially more equitable for that beneficiary to bear the tax liability personally than for that part of the tax to be advanced by uninsured holders.

(5) Upon payment by an uninsured holder of estate tax required to be advanced, a court may require the beneficiary of an interest in insulated property to provide a bond or other security, including a recordable lien on the property of the beneficiary, for repayment of the advanced tax.

(6) When a distribution of insulated property is made, each uninsured holder may recover from the distributee a ratable portion of the advanced fraction of the property distributed. To the extent that undistributed insulated property ceases to be insulated, each uninsured holder may recover from the property a ratable portion of the advanced fraction of the total undistributed property.

NEW SECTION. Sec. 7. APPORTIONMENT AND RECAPTURE OF SPECIAL ELECTIVE BENEFITS. (1) As used in this section:

(a) "Special elective benefit" means a reduction in an estate tax obtained by an election for:

(i) A reduced valuation of specified property that is included in the gross estate;

(ii) A deduction from the gross estate, other than a marital or charitable deduction, allowed for specified property; or

(iii) An exclusion from the gross estate of specified property.

(b) "Specified property" means property for which an election has been made for a special elective benefit.

(2) If an election is made for one or more special elective benefits, an initial apportionment of a hypothetical estate tax must be computed as if no election for any of those benefits had been made. The aggregate reduction in estate tax resulting from all elections made must be allocated among holders of interests in the specified property in the proportion that the amount of deduction, reduced valuation, or exclusion attributable to each holder's interest bears to the aggregate amount of deductions, reduced valuations, and exclusions obtained by

the decedent's estate from the elections. If the estate tax initially apportioned to the holder of an interest in specified property is reduced to zero, any excess amount of reduction reduces ratably the estate tax apportioned to other persons that receive interests in the apportionable estate.

(3) An additional estate tax imposed to recapture all or part of a special elective benefit must be charged to the persons that are liable for the additional tax under the law providing for the recapture.

NEW SECTION. Sec. 8. SECURING PAYMENT OF ESTATE TAX FROM PROPERTY IN POSSESSION OF FIDUCIARY. (1) A fiduciary may defer a distribution of property until the fiduciary is satisfied that adequate provision for payment of the estate tax has been made.

(2) A fiduciary may withhold from a distributee the estate tax apportioned to and the estate tax required to be advanced by the distributee.

(3) As a condition to a distribution, a fiduciary may require the distributee to provide a bond or other security for the estate tax apportioned to and the estate tax required to be advanced by the distributee.

NEW SECTION. Sec. 9. COLLECTION OF ESTATE TAX BY FIDUCIARY. (1) A fiduciary responsible for payment of an estate tax may collect from any person the estate tax apportioned to and the estate tax required to be advanced by the person.

(2) Except as otherwise provided in section 6 of this act, any estate tax due from a person that cannot be collected from the person may be collected by the fiduciary from other persons in the following order of priority:

(a) Any person having an interest in the apportionable estate which is not exonerated from the tax;

(b) Any other person having an interest in the apportionable estate;

(c) Any person having an interest in the gross estate.

(3) A domiciliary fiduciary may recover from an ancillary personal representative the estate tax apportioned to the property controlled by the ancillary personal representative.

(4) The total tax collected from a person pursuant to this chapter may not exceed the value of the person's interest.

NEW SECTION. Sec. 10. RIGHT OF REIMBURSEMENT. (1) A person required under section 9 of this act to pay an estate tax greater than the amount due from the person under section 3 or 4 of this act has a right to reimbursement from another person to the extent that the other person has not paid the tax required by section 3 or 4 of this act and a right to reimbursement ratably from other persons to the extent that each has not contributed a portion of the amount collected under section 9(2) of this act.

(2) A fiduciary may enforce the right of reimbursement under subsection (1) of this section on behalf of the person that is entitled to the reimbursement and shall take reasonable steps to do so if requested by the person.

NEW SECTION. Sec. 11. ACTION TO DETERMINE OR ENFORCE CHAPTER—APPLICATION OF CHAPTER 11.96A RCW. Chapter 11.96A RCW applies to issues, questions, or disputes that arise under or that relate to this chapter. Any and all such issues, questions, or disputes may be resolved judicially or nonjudicially under chapter 11.96A RCW.

NEW SECTION. Sec. 12. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, 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. 13. 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. 14. APPLICATION DATE. (1) This act takes effect for estate tax due on account of decedents who die on or after January 1, 2006.

(2) Sections 2 through 7 of this act do not apply to a decedent who dies after December 31, 2005, if the decedent continuously lacked testamentary capacity from January 1, 2006, until the date of death. For such a decedent, estate tax must be apportioned pursuant to the law in effect immediately before the effective date of this act.

NEW SECTION. Sec. 15. The following acts or parts of acts are each repealed:

(1) RCW 83.110.010 (Definitions) and 2000 c 129 s 1, 1998 c 292 s 402, 1994 c 221 s 71, 1993 c 73 s 10, 1989 c 40 s 1, & 1986 c 63 s 1;

(2) RCW 83.110.020 (Apportionment of tax) and 2000 c 129 s 2, 1989 c 40 s 2, & 1986 c 63 s 2;

(3) RCW 83.110.030 (Apportionment procedure) and 2000 c 129 s 3, 1990 c 180 s 6, 1989 c 40 s 3, & 1986 c 63 s 3;

(4) RCW 83.110.040 (Collection of tax from persons interested in the estate—Security) and 1986 c 63 s 4;

(5) RCW 83.110.050 (Allowance for exemptions, deductions, and credits) and 2000 c 129 s 4, 1993 c 73 s 11, 1989 c 40 s 4, & 1986 c 63 s 5;

(6) RCW 83.110.060 (Apportionment between temporary and remainder interests) and 2000 c 129 s 5, 1989 c 40 s 5, & 1986 c 63 s 6;

(7) RCW 83.110.070 (Time for recovery of tax from persons interested in the estate—Exoneration of fiduciary—Recovery of uncollectible taxes) and 1986 c 63 s 7;

(8) RCW 83.110.080 (Action by nonresident—Reciprocity) and 1986 c 63 s 8;

(9) RCW 83.110.090 (Coordination with federal law) and 2000 c 129 s 6, 1989 c 40 s 6, & 1986 c 63 s 9;

(10) RCW 83.110.900 (Construction) and 1986 c 63 s 10;

(11) RCW 83.110.901 (Short title) and 1986 c 63 s 11;

(12) RCW 83.110.902 (Captions) and 1986 c 63 s 13;

(13) RCW 83.110.903 (Application) and 1988 c 64 s 26 & 1986 c 63 s 14; and

(14) RCW 83.110.904 (Severability—1986 c 63) and 1986 c 63 s 12.

NEW SECTION. Sec. 16. CAPTIONS NOT LAW. Captions used in this chapter are not part of the law.

NEW SECTION. Sec. 17. This act takes effect January 1, 2006.

NEW SECTION. Sec. 18. The repealed sections of law in section 15 of this act shall not be construed as affecting any existing right, liability, or

obligation incurred, under the repealed sections or under any rule or order adopted under those sections, nor as affecting any proceeding instituted under those sections.

NEW SECTION. Sec. 19. Sections 1 through 14 and 16 of this act constitute a new chapter in Title 83 RCW.

Passed by the Senate April 18, 2005.

Passed by the House April 12, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 333

[Second Substitute Senate Bill 5056]

DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

AN ACT Relating to creating the department of archaeology and historic preservation; amending RCW 43.17.020, 27.34.020, 27.34.070, 27.34.230, 27.34.330, 27.34.342, 27.34.344, 27.53.020, 27.53.030, 27.53.070, 27.53.080, and 27.53.095; reenacting and amending RCW 43.17.010; adding a new section to chapter 41.06 RCW; adding a new chapter to Title 43 RCW; repealing RCW 27.34.210, 27.34.310, and 27.34.320; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) There is created a department of state government to be known as the department of archaeology and historic preservation. 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) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(a) "Department" means the department of archaeology and historic preservation.

(b) "Director" means the director of the department of archaeology and historic preservation.

NEW SECTION. Sec. 2. The executive head and appointing authority of the department is the director. The director shall serve as the state historic preservation officer, and shall have a background in program administration, an active involvement in historic preservation, and a knowledge of the national, state, and local preservation programs as they affect the state of Washington. The director shall be appointed by the governor, with the consent of the senate, and serves at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. If a vacancy occurs in the position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate.

NEW SECTION. Sec. 3. It is the intent of the legislature wherever possible to place the internal affairs of the department under the control of the director in order that the director may institute therein the flexible, alert, and intelligent management of its business that changing contemporary circumstances require. Therefore, whenever the director's authority is not specifically limited by law, the director has complete charge and supervisory powers over the department. The director may create such administrative structures as the director considers

appropriate, except as otherwise specified by law. The director may employ such assistants and personnel as necessary for the general administration of the department. This employment shall be in accordance with the state civil service law, chapter 41.06 RCW, except as otherwise provided.

NEW SECTION. Sec. 4. If necessary, the department may be subdivided into divisions. Except as otherwise specified or as federal requirements may differently require, divisions shall be established and organized in accordance with plans to be prepared by the director and approved by the governor. In preparing the plans, the director shall endeavor to promote efficient public management and to improve programs.

NEW SECTION. Sec. 5. The director shall appoint a deputy director, a department personnel director, and assistant directors as needed to administer the department. The deputy director is responsible for the general supervision of the department in the absence or disability of the director and, in case of a vacancy in the office of director, shall continue in charge of the department until a successor is appointed and qualified, or until the governor appoints an acting director.

NEW SECTION. Sec. 6. Any power or duty vested in or transferred to the director by law or executive order may be delegated by the director to the deputy director or to any other assistant or subordinate; but the director is responsible for the official acts of the officers and employees of the department.

NEW SECTION. Sec. 7. The director may appoint advisory committees or councils as required by any federal legislation as a condition to the receipt of federal funds by the department. The director may also appoint statewide committees or councils on those subject matters as are or come within the department's responsibilities. The statewide committees and councils shall have representation from both major political parties and shall have substantial consumer representation. The committees or councils shall be constituted as required by federal law or as the director may determine. The members of the committees or councils shall hold office as follows: One-third to serve one year; one-third to serve two years; and one-third to serve three years. Upon expiration of the original terms, subsequent appointments shall be for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member may serve more than two consecutive terms.

Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 8. In furtherance of the policy of the state to cooperate with the federal government in all of the programs under the jurisdiction of the department, rules as may become necessary to entitle the state to participate in federal funds may be adopted, unless expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements that are a necessary condition to state receipt of federal funds. Any section or provision of law dealing with the department that may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. If any law dealing with the department is ruled to be in conflict with federal requirements

that are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, the conflicting part is declared to be inoperative solely to the extent of the conflict.

NEW SECTION. **Sec. 9.** A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions under RCW 41.06.070, this chapter does not apply in the department of archaeology and historic preservation to the director, the director's personal secretary, the deputy director, all division directors and assistant directors, and one confidential secretary for each of these officers.

Sec. 10. RCW 43.17.010 and 1993 sp.s. c 2 s 16, 1993 c 472 s 17, and 1993 c 280 s 18 are each reenacted and amended to read as follows:

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of community, trade, and economic development, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (~~and~~) (14) the department of health, (~~and~~) (15) the department of financial institutions, and (16) the department of archaeology and historic preservation, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

Sec. 11. RCW 43.17.020 and 1995 1st sp.s. c 2 s 2 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (~~and~~) (14) the secretary of health, (~~and~~) (15) the director of financial institutions, and (16) the director of the department of archaeology and historic preservation.

Such officers, except the secretary of transportation and the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

NEW SECTION. **Sec. 12.** (1) The office of archaeology and historic preservation is hereby abolished and its powers, duties, and functions are hereby transferred to the department of archaeology and historic preservation.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the office of archaeology and historic preservation shall be delivered to the custody of the department of archaeology

and historic preservation. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the office of archaeology and historic preservation shall be made available to the department of archaeology and historic preservation. All funds, credits, or other assets held by the office of archaeology and historic preservation shall be assigned to the department of archaeology and historic preservation.

(b) Any appropriations made to the office of archaeology and historic preservation shall, on the effective date of this section, be transferred and credited to the department of archaeology and historic preservation.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the office of archaeology and historic preservation are transferred to the jurisdiction of the department of archaeology and historic preservation. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of archaeology and historic preservation to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the office of archaeology and historic preservation shall be continued and acted upon by the department of archaeology and historic preservation. All existing contracts and obligations shall remain in full force and shall be performed by the department of archaeology and historic preservation.

(5) The transfer of the powers, duties, functions, and personnel of the office of archaeology and historic preservation shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel resources board as provided by law.

Sec. 13. RCW 27.34.020 and 1995 c 399 s 13 are each amended to read as follows:

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

- (1) "Advisory council" means the advisory council on historic preservation.
- (2) "Department" means the department of ~~((community, trade, and economic development))~~ archaeology and historic preservation.
- (3) "Director" means the director of ~~((community, trade, and economic development))~~ the department of archaeology and historic preservation.

(4) "Federal act" means the national historic preservation act of 1966 (Public Law 89-655; 80 Stat. 915).

(5) "Heritage council" means the Washington state heritage council.

(6) "Historic preservation" includes the protection, rehabilitation, restoration, identification, scientific excavation, and reconstruction of districts, sites, buildings, structures, and objects significant in American and Washington state history, architecture, archaeology, or culture.

~~(7) ("Office" means the office of archaeology and historic preservation within the department.~~

~~(8))~~ "Preservation officer" means the state historic preservation officer as provided for in ~~((RCW 27.34.210))~~ section 2 of this act.

~~((9))~~ (8) "Project" means programs leading to the preservation for public benefit of historical properties, whether by state and local governments or other public bodies, or private organizations or individuals, including the acquisition of title or interests in, and the development of, any district, site, building, structure, or object that is significant in American and Washington state history, architecture, archaeology, or culture, and property used in connection therewith, or for its development.

~~((10))~~ (9) "State historical agencies" means the state historical societies ~~((and the office of archaeology and historic preservation within))~~ and the department.

~~((11))~~ (10) "State historical societies" means the Washington state historical society and the eastern Washington state historical society.

~~((12))~~ (11) "Cultural resource management plan" means a comprehensive plan which identifies and organizes information on the state of Washington's historic, archaeological, and architectural resources into a set of management criteria, and which is to be used for producing reliable decisions, recommendations, and advice relative to the identification, evaluation, and protection of these resources.

Sec. 14. RCW 27.34.070 and 1983 c 91 s 7 are each amended to read as follows:

(1) Each state historical society is designated a trustee for the state whose powers and duties include but are not limited to the following:

(a) To collect, catalog, preserve, and interpret objects, manuscripts, sites, photographs, and other materials illustrative of the cultural, artistic, and natural history of this state;

(b) To operate state museums and assist and encourage cultural and historical studies and museum interpretive efforts throughout the state, including those sponsored by local historical organizations, and city, county, and state agencies;

(c) To engage in cultural, artistic, and educational activities, including classes, exhibits, seminars, workshops, and conferences if these activities are related to the basic purpose of the society;

(d) To plan for and conduct celebrations of significant events in the history of the state of Washington and to give assistance to and coordinate with state agencies, local governments, and local historical organizations in planning and conducting celebrations;

(e) To create one or more classes of membership in the society;

(f) To engage in the sale of various articles which are related to the basic purpose of the society;

(g) To engage in appropriate fund-raising activities for the purpose of increasing the self-support of the society;

(h) To accept gifts, grants, conveyances, bequests, and devises, of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend the same or the proceeds, rents, profits, and income therefrom except as limited by the donor's terms. The governing boards of the state historical societies shall adopt rules to govern and protect the receipt and expenditure of the proceeds, rents, profits, and income of all such gifts, grants, conveyances, bequests, and devises;

(i) To accept on loan or lend objects of historical interest, and sell, exchange, divest itself of, or refuse to accept, items which do not enhance the collection; and

(j) To charge general or special admission fees to its museums or exhibits and to waive or decrease such fees as it finds appropriate(~~;~~and

~~(k) To work with the heritage council in developing the plan under RCW 27.34.050).~~

(2) All objects, sites, manuscripts, photographs, and all property, including real property, now held or hereafter acquired by the state historical societies shall be held by the societies in trust for the use and benefit of the people of Washington state.

Sec. 15. RCW 27.34.230 and 1986 c 266 s 12 are each amended to read as follows:

The director or the director's designee shall:

(1) ~~((Submit the budget requests for the office to the heritage council for review and comment;~~

~~(2))~~ Receive, administer, and disburse such gifts, grants, and endowments from private sources as may be made in trust or otherwise for the purposes of RCW 27.34.200 through ~~((27.34.290))~~ 27.34.220 or the federal act; and

~~((3))~~ (2) Develop and implement a cultural resource management plan.

Sec. 16. RCW 27.34.330 and 1999 c 295 s 2 are each amended to read as follows:

The Washington state historical society shall establish a competitive process to solicit proposals for and prioritize heritage capital projects for potential funding in the state capital budget. The society shall adopt rules governing project eligibility and evaluation criteria. Application for funding of specific projects may be made to the society by local governments, public development authorities, nonprofit corporations, tribal governments, and other entities, as determined by the society. The society, with the advice of leaders in the heritage field, including but not limited to representatives from the office of the secretary of state, the eastern Washington state historical society, and the ~~((state office of archaeology and historic preservation))~~ department, shall establish and submit a prioritized list of heritage capital projects to the governor and the legislature in the society's biennial capital budget request. The list shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a biennial project list shall not exceed four million

dollars. The department may provide an additional alternate project list which shall not exceed five hundred thousand dollars. The prioritized list shall be developed through open and public meetings and the amount of state funding shall not exceed thirty-three percent of the total cost of the project. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions. The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects. In contracts for grants authorized under this section, the society shall include provisions requiring that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

Sec. 17. RCW 27.34.342 and 1999 c 35 s 1 are each amended to read as follows:

The Lewis and Clark bicentennial advisory committee is created under the auspices of the Washington state historical society. The committee shall consist of (~~fifteen~~) sixteen members, as follows:

- (1) Six citizen members, at least three of whom must be enrolled members of a Washington Indian tribe, who shall be appointed by the governor;
- (2) The president of the Washington state historical society;
- (3) The director of the Washington state parks and recreation commission;
- (4) The secretary of the Washington state department of transportation;
- (5) The director of the Washington state department of community, trade, and economic development;
- (6) Four members of the Washington state legislature, one from each caucus in the senate and the house of representatives as designated by each caucus; (~~and~~)
- (7) The chair of the Lewis and Clark trail advisory committee; and
- (8) The director of the department of archaeology and historic preservation.

Sec. 18. RCW 27.34.344 and 1999 c 35 s 2 are each amended to read as follows:

(1) The Lewis and Clark bicentennial (~~(advisory)~~) advisory committee shall coordinate and provide guidance to Washington's observance of the bicentennial of the Lewis and Clark expedition. The committee may:

- (a) Cooperate with national, regional, statewide, and local events promoting the bicentennial;
- (b) Assist, plan, or conduct bicentennial events;
- (c) Engage in or encourage fund-raising activities including revenue-generating enterprises, as well as the solicitation of charitable gifts, grants, or donations;
- (d) Promote public education concerning the importance of the Lewis and Clark expedition in American history, including the role of native people in making the expedition a success;
- (e) Coordinate interagency participation in the observance; and

(f) Perform other related duties.

(2) The committee is attached to the Washington state historical society for administrative purposes. Accordingly, the society shall:

(a) Direct and supervise the budgeting, recordkeeping, reporting, and related administrative and clerical functions of the committee;

(b) Include the committee's budgetary requests in the society's departmental budget;

(c) Collect all nonappropriated revenues for the committee and deposit them in the proper fund or account;

(d) Provide staff support for the committee;

(e) Print and disseminate for the committee any required notices, rules, or orders adopted by the committee; and

(f) Allocate or otherwise provide office space to the committee as may be necessary.

Sec. 19. RCW 27.53.020 and 2002 c 211 s 2 are each amended to read as follows:

The discovery, identification, excavation, and study of the state's archaeological resources, the providing of information on archaeological sites for their nomination to the state and national registers of historic places, the maintaining of a complete inventory of archaeological sites and collections, and the providing of information to state, federal, and private construction agencies regarding the possible impact of construction activities on the state's archaeological resources, are proper public functions; and the ~~((office))~~ department of archaeology and historic preservation, created under the authority of chapter ((39-34)) 43.— RCW (sections 1 through 8 and 12 of this act), is hereby designated as an appropriate agency to carry out these functions. The director ~~((, in consultation with the office of archaeology and historic preservation,))~~ shall provide guidelines for the selection of depositories designated by the state for archaeological resources. The legislature directs that there shall be full cooperation amongst the department ~~((, the office of archaeology and historic preservation,))~~ and other agencies of the state.

Sec. 20. RCW 27.53.030 and 1995 c 399 s 16 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions ((contained)) in this section ((shall)) apply throughout this chapter unless the context clearly requires otherwise.

(1) "Archaeology" means systematic, scientific study of man's past through material remains.

(2) "Archaeological object" means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products.

(3) "Archaeological site" means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(4) "Department" means the department of ~~((community, trade, and economic development))~~ archaeology and historic preservation, created in chapter 43.— RCW (sections 1 through 8 and 12 of this act).

(5) "Director" means the director of ~~((community, trade, and economic development or the director's designee))~~ the department of archaeology and historic preservation, created in chapter 43.— RCW (sections 1 through 8 and 12 of this act).

(6) "Historic" means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term historic shall include only those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(7) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(8) "Professional archaeologist" means a person who has met the educational, training, and experience requirements of the society of professional archaeologists.

(9) "Qualified archaeologist" means a person who has had formal training and/or experience in archaeology over a period of at least three years, and has been certified in writing to be a qualified archaeologist by two professional archaeologists.

(10) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

(11) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

Sec. 21. RCW 27.53.070 and 1975-'76 2nd ex.s. c 82 s 3 are each amended to read as follows:

It is the declared intention of the legislature that field investigations on privately owned lands should be discouraged except in accordance with both the provisions and spirit of this chapter and persons having knowledge of the location of archaeological sites or resources are encouraged to communicate such information to the ~~((Washington archaeological research center))~~ department. Such information shall not constitute a public record which requires disclosure pursuant to the exception authorized in RCW 42.17.310, as now or hereafter amended, to avoid site depredation.

Sec. 22. RCW 27.53.080 and 2002 c 211 s 5 are each amended to read as follows:

(1) Qualified or professional archaeologists, in performance of their duties, may enter upon public lands of the state of Washington and its political subdivisions after first notifying the entity responsible for managing those public lands, at such times and in such manner as not to interfere with the normal management thereof, for the purposes of doing archaeological resource location and evaluation studies, including site sampling activities. The results of such

studies shall be provided to the state agency or political subdivision responsible for such lands and the (~~office of archaeology and historic preservation~~) department and are confidential unless the director, in writing, declares otherwise. Scientific excavations are to be carried out only after appropriate agreement has been made between a professional archaeologist or an institution of higher education and the agency or political subdivision responsible for such lands. A copy of such agreement shall be filed with the (~~office of archaeology and historic preservation and by them to the~~) department.

(2) Amateur societies may engage in such activities by submitting and having approved by the responsible agency or political subdivision a written proposal detailing the scope and duration of the activity. Before approval, a proposal from an amateur society shall be submitted to the (~~office of archaeology and historic preservation~~) department for review and recommendation. The approving agency or political subdivision shall impose conditions on the scope and duration of the proposed activity necessary to protect the archaeological resources and ensure compliance with applicable federal, state, and local laws. The findings and results of activities authorized under this section shall be made known to the approving agency or political subdivision approving the activities and to the (~~office of archaeology and historic preservation~~) department.

Sec. 23. RCW 27.53.095 and 2002 c 211 s 4 are each amended to read as follows:

(1) Persons found to have violated this chapter, either by a knowing and willful failure to obtain a permit where required under RCW 27.53.060 or by a knowing and willful failure to comply with the provisions of a permit issued by the director where required under RCW 27.53.060, in addition to other remedies as provided for by law, may be subject to one or more of the following:

(a) Reasonable investigative costs incurred by a mutually agreed upon independent professional archaeologist investigating the alleged violation;

(b) Reasonable site restoration costs; and

(c) Civil penalties, as determined by the director, in an amount of not more than five thousand dollars per violation.

(2) Any person incurring the penalty may file an application for an adjudicative proceeding and may pursue subsequent review as provided in chapter 34.05 RCW and applicable rules of the department (~~of community, trade, and economic development~~).

(3) Any penalty imposed by final order following an adjudicative proceeding becomes due and payable upon service of the final order.

(4) The attorney general may bring an action in the name of the department in the superior court of Thurston county or of any county in which the violator may do business to collect any penalty imposed under this chapter and to enforce subsection (5) of this section.

(5) Any and all artifacts in possession of a violator shall become the property of the state until proper identification of artifact ownership may be determined by the director.

(6) Penalties overturned on appeal entitle the appealing party to fees and other expenses, including reasonable attorneys' fees, as provided in RCW 4.84.350.

NEW SECTION. **Sec. 24.** The following acts or parts of acts are each repealed:

(1) RCW 27.34.210 (Office of archaeology and historic preservation—Preservation officer—Qualifications) and 1995 c 399 s 14, 1986 c 266 s 10, & 1983 c 91 s 11;

(2) RCW 27.34.310 (Inventory of state-owned properties—Definitions) and 1995 c 399 s 15 & 1993 c 325 s 3; and

(3) RCW 27.34.320 (Inventory of state-owned properties—Procedure—Grants) and 1993 c 325 s 4.

NEW SECTION. **Sec. 25.** Sections 1 through 8 and 12 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 26.** Sections 16 through 18 of this act expire June 30, 2007.

Passed by the Senate March 10, 2005.

Passed by the House April 12, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 334

[Engrossed Senate Bill 5110]

EXECUTIVE BOARD OF REGIONAL TRANSPORTATION PLANNING—PORT DISTRICT MEMBERS

AN ACT Relating to adding an additional port district member to the executive board of regional transportation planning organizations; and amending RCW 47.80.060.

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

Sec. 1. RCW 47.80.060 and 1992 c 101 s 31 are each amended to read as follows:

In order to qualify for state planning funds available to regional transportation planning organizations, the regional transportation planning organizations containing any county with a population in excess of one million shall provide voting membership on its executive board to the state transportation commission, the state department of transportation, and the ((three)) four largest public port districts within the region as determined by gross operating revenues. It shall further assure that at least fifty percent of the county and city local elected officials who serve on the executive board also serve on transit agency boards or on a regional transit authority.

Passed by the Senate April 16, 2005.

Passed by the House April 5, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 335

[Substitute Senate Bill 5139]

HIGHWAY AND BRIDGE TOLLING AUTHORITY

AN ACT Relating to highway and bridge tolling authority; amending RCW 47.56.075, 47.56.076, and 47.56.270; creating a new section; and repealing RCW 47.56.273, 47.56.282,

47.56.284, 47.56.286, 47.56.287, 47.56.288, 47.56.290, 47.56.291, 47.56.310, 47.56.320, 47.56.330, 47.56.340, 47.56.343, 47.56.345, 47.56.360, 47.56.380, 47.56.390, 47.56.400, 47.56.410, 47.56.420, 47.56.430, 47.56.440, 47.56.450, 47.56.460, 47.56.470, 47.56.480, 47.56.490, 47.56.500, 47.56.580, 47.56.590, 47.56.610, 47.56.630, 47.56.631, 47.56.640, 47.56.643, 47.56.646, 47.56.649, 47.56.652, 47.56.655, 47.56.658, 47.56.659, 47.56.661, 47.56.667, 47.56.700, 47.56.701, 47.56.702, 47.56.703, 47.56.704, 47.56.705, 47.56.706, 47.56.7115, 47.56.7125, 47.56.740, 47.56.741, 47.56.742, 47.56.743, 47.56.744, 47.56.745, 47.56.746, 47.56.747, 47.56.748, 47.56.749, 47.56.750, 47.56.751, 47.56.752, 47.56.753, 47.56.754, 47.56.755, 47.56.756, 47.56.760, 47.56.761, 47.58.500, 47.60.445, 47.60.450, 47.60.502, and 47.60.503.

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

**Sec. 1. RCW 47.56.075 and 2002 c 56 s 404 are each amended to read as follows:*

The ((department)) commission shall approve for construction only such toll roads as the legislature specifically authorizes or such toll facilities as are specifically sponsored by a regional transportation investment district, city, town, or county.

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

NEW SECTION. Sec. 2. No tolls may be imposed on new or existing highways or bridges without specific legislative authorization, or upon a majority vote of the people within the boundaries of the unit of government empowered to impose tolls. This section applies to chapter 47.56 RCW and to any tolls authorized under Substitute House Bill No. 1541, the transportation innovative partnership act of 2005.

Sec. 3. RCW 47.56.076 and 2002 c 56 s 403 are each amended to read as follows:

Upon approval of a majority of the voters within its boundaries voting on the ballot proposition, and only for the purposes authorized in RCW 36.120.050(1)((~~f~~)) (g), a regional transportation investment district may ((impose)) authorize vehicle tolls on state routes where improvements financed in whole or in part by a regional transportation investment district add additional lanes to, or reconstruct lanes on, a highway of statewide significance. The department shall administer the collection of vehicle tolls authorized on designated facilities unless otherwise specified in law, and the state transportation commission, or its successor, shall be the tolling authority.

Sec. 4. RCW 47.56.270 and 2002 c 114 s 20 are each amended to read as follows:

The ((~~Lake Washington bridge and the~~)) 1950 Tacoma Narrows bridge in chapter 47.17 RCW made a part of the primary state highways of the state of Washington((-)) shall, upon completion, be operated, maintained, kept up, and repaired by the department in the manner provided in this chapter, and the cost of such operation, maintenance, upkeep, and repair shall be paid from funds appropriated for the use of the department for the construction and maintenance of the primary state highways of the state of Washington. This section does not apply to that portion of the Tacoma Narrows bridge facility first opened to traffic after June 13, 2002.

NEW SECTION. Sec. 5. The following acts or parts of acts are each repealed:

(1) RCW 47.56.273 (Fox Island toll bridge—Need for removal of tolls) and 1961 c 13 s 47.56.273;

(2) RCW 47.56.282 (Additional Lake Washington bridge (1957 Act)—Revenue bonds—Toll charges and other support) and 1965 ex.s. c 170 s 56 & 1961 c 13 s 47.56.282;

(3) RCW 47.56.284 (Additional Lake Washington bridge (1957 Act)—Continuous project—Authorization of other additional bridges) and 1984 c 7 s 273 & 1961 c 13 s 47.56.284;

(4) RCW 47.56.286 (Additional Lake Washington bridge (1957 Act)—Interpretation) and 1985 c 7 s 114, 1984 c 7 s 274, & 1961 c 13 s 47.56.286;

(5) RCW 47.56.287 (Second Lake Washington bridge—Use of motor vehicle fund to pay deficits) and 1984 c 7 s 275 & 1965 ex.s. c 170 s 54;

(6) RCW 47.56.288 (Second Lake Washington bridge—Designation of funds to pay deficits—Pledge of excise tax proceeds) and 1965 ex.s. c 170 s 55;

(7) RCW 47.56.290 (Additional Lake Washington bridge (1953 Act)—Appropriation—Repayment from bond issue) and 1961 c 13 s 47.56.290;

(8) RCW 47.56.291 (Additional Lake Washington bridge in vicinity of first bridge—Design and construction authorized) and 1965 ex.s. c 170 s 57;

(9) RCW 47.56.310 (Additional Columbia river bridge—Vancouver to Portland bridges—Cooperation with Oregon) and 1961 c 13 s 47.56.310;

(10) RCW 47.56.320 (Additional Columbia river bridge—Tolls) and 1961 c 13 s 47.56.320;

(11) RCW 47.56.330 (Additional Columbia river bridge—Agreements with Oregon authorized) and 1961 c 13 s 47.56.330;

(12) RCW 47.56.340 (Additional Columbia river bridge—When toll free) and 1961 c 13 s 47.56.340;

(13) RCW 47.56.343 (Additional Columbia river bridge—Revenue bonds) and 1961 c 13 s 47.56.343;

(14) RCW 47.56.345 (Additional Columbia river bridge—Construction—Severability) and 1984 c 7 s 276 & 1961 c 13 s 47.56.345;

(15) RCW 47.56.360 (Bridging Puget Sound, Hood Canal—Operation, maintenance, prior charge upon revenue—Appropriations to be repaid) and 1961 c 13 s 47.56.360;

(16) RCW 47.56.380 (Express highway—Tacoma-Seattle-Everett—Limited access) and 1984 c 7 s 278 & 1961 c 13 s 47.56.380;

(17) RCW 47.56.390 (Express highway—Operation as toll highway—Part of state system) and 1984 c 7 s 279 & 1961 c 13 s 47.56.390;

(18) RCW 47.56.400 (Express highway—Powers and duties of department) and 1984 c 7 s 280 & 1961 c 13 s 47.56.400;

(19) RCW 47.56.410 (Lopez Island-San Juan toll bridge—Appropriation—Study—Location, exploration, foundation, design) and 1961 c 13 s 47.56.410;

(20) RCW 47.56.420 (Lopez Island-San Juan toll bridge—Final designs, construction, revenue bonds authorized) and 1961 c 13 s 47.56.420;

(21) RCW 47.56.430 (Lopez Island-San Juan toll bridge—Operation, maintenance, prior charge upon revenue—Appropriations to be repaid) and 1961 c 13 s 47.56.430;

(22) RCW 47.56.440 (Lopez Island-San Juan toll bridge—Effect of toll bridge authority resolution No. 295—Ferry system refunding revenue bonds) and 1961 c 13 s 47.56.440;

(23) RCW 47.56.450 (Columbia river bridge at Biggs Rapids—Authorized—Cooperation with Klickitat county, highway commission, Oregon highway commission and Sherman county) and 1961 c 13 s 47.56.450;

(24) RCW 47.56.460 (Columbia river bridge at Biggs Rapids—Appropriation—Repayment from bond issue) and 1961 c 13 s 47.56.460;

(25) RCW 47.56.470 (Columbia river bridge at Biggs Rapids—Revenue bonds) and 1961 c 13 s 47.56.470;

(26) RCW 47.56.480 (Columbia river bridge at Biggs Rapids—Construction of act) and 1961 c 13 s 47.56.480;

(27) RCW 47.56.490 (Columbia river bridge at Biggs Rapids—Powers of department—Tolls) and 1984 c 7 s 281 & 1961 c 13 s 47.56.490;

(28) RCW 47.56.500 (Columbia river bridge at Biggs Rapids—Agreements authorized) and 1961 c 13 s 47.56.500;

(29) RCW 47.56.580 (Naches Pass tunnel—What studies and surveys shall include) and 1961 c 13 s 47.56.580;

(30) RCW 47.56.590 (Naches Pass tunnel—Plan for financing) and 1961 c 13 s 47.56.590;

(31) RCW 47.56.610 (Naches Pass tunnel—Contribution by political subdivisions) and 1961 c 13 s 47.56.610;

(32) RCW 47.56.630 (Naches Pass tunnel—Repayment to motor vehicle fund of funds appropriated) and 1961 c 13 s 47.56.630;

(33) RCW 47.56.631 (Naches Pass tunnel—Additional studies—Route of highway and tunnel—Appropriation) and 1961 ex.s. c 21 s 18;

(34) RCW 47.56.640 (Bridging lower Columbia river in vicinity of Astoria-Megler) and 1961 c 209 s 1;

(35) RCW 47.56.643 (Bridging lower Columbia river in vicinity of Astoria-Megler—Agreements with United States—Acceptance of public or private funds) and 1961 c 209 s 2;

(36) RCW 47.56.646 (Bridging lower Columbia river in vicinity of Astoria-Megler—Agreements with Oregon—Provisions for Oregon bond issue, powers and duties of both states, tolls, apportionment of costs, etc.) and 1961 c 209 s 3;

(37) RCW 47.56.649 (Bridging lower Columbia river in vicinity of Astoria-Megler—Use of Washington motor vehicle fuel taxes, motor vehicle fund to pay Oregon bonds if tolls and fees insufficient) and 1961 c 209 s 4;

(38) RCW 47.56.652 (Bridging lower Columbia river in vicinity of Astoria-Megler—Procedure for this state paying deficiency in tolls and fees for Oregon bond issue) and 1961 c 209 s 5;

(39) RCW 47.56.655 (Bridging lower Columbia river in vicinity of Astoria-Megler—Washington liability for costs—Maintenance and repair—Approaches) and 1961 c 209 s 6;

(40) RCW 47.56.658 (Bridging lower Columbia river in vicinity of Astoria-Megler—Financial responsibility of Pacific county—Prior commitment required) and 1969 ex.s. c 281 s 52 & 1961 c 209 s 7;

(41) RCW 47.56.659 (Bridging lower Columbia river in vicinity of Astoria-Megler—Contractual obligations of Pacific county terminated) and 1969 ex.s. c 281 s 53;

(42) RCW 47.56.661 (Bridging lower Columbia river in vicinity of Astoria-Megler—Deposit of contribution of Pacific county in motor vehicle fund—Use) and 1961 c 209 s 8;

(43) RCW 47.56.667 (Bridging lower Columbia river in vicinity of Astoria-Megler—When toll free) and 1961 c 209 s 10;

(44) RCW 47.56.700 (Columbia river, Vernita bridge and highway approach from Richland—Authorized) and 1963 c 197 s 1;

(45) RCW 47.56.701 (Columbia river, Vernita bridge and highway approach from Richland—Revenue bonds—Tolls and charges) and 1963 c 197 s 2;

(46) RCW 47.56.702 (Columbia river, Vernita bridge and highway approach from Richland—Pledge of excise taxes imposed on motor vehicle fuels) and 1984 c 7 s 282 & 1963 c 197 s 3;

(47) RCW 47.56.703 (Columbia river, Vernita bridge and highway approach from Richland—Continued imposition of such taxes) and 1984 c 7 s 283 & 1963 c 197 s 4;

(48) RCW 47.56.704 (Columbia river, Vernita bridge and highway approach from Richland—Repayment of motor vehicle fund money—Continuation of tolls) and 1984 c 7 s 284 & 1963 c 197 s 5;

(49) RCW 47.56.705 (Columbia river, Vernita bridge and highway approach from Richland—Facility to be part of highway system—Operation, collection of tolls) and 1983 c 3 s 131 & 1963 c 197 s 6;

(50) RCW 47.56.706 (Columbia river, Vernita bridge and highway approach from Richland—Laws applicable—Construction of 1963 statute) and 1983 c 3 s 132 & 1963 c 197 s 7;

(51) RCW 47.56.7115 (Spokane river toll bridge—Operation and maintenance responsibility and funding) and 1990 c 42 s 402;

(52) RCW 47.56.7125 (Spokane river toll bridge—Transfer of funds) and 1990 c 42 s 404;

(53) RCW 47.56.740 (Columbia river bridge at Horn Rapids—Authorized—Approach routes) and 1981 c 327 s 1 & 1979 ex.s. c 212 s 1;

(54) RCW 47.56.741 (Columbia river bridge at Horn Rapids—Agreements with local governments) and 1979 ex.s. c 212 s 2;

(55) RCW 47.56.742 (Columbia river bridge at Horn Rapids—Bonds—Agreements with local governments required) and 1981 c 327 s 2 & 1979 ex.s. c 212 s 3;

(56) RCW 47.56.743 (Columbia river bridge at Horn Rapids—Bonds—Plans for funding obligations of local governments required) and 1979 ex.s. c 212 s 4;

(57) RCW 47.56.744 (Columbia river bridge at Horn Rapids—Agreements with United States—Acceptance of public or private funds) and 1979 ex.s. c 212 s 5;

(58) RCW 47.56.745 (Columbia river bridge at Horn Rapids—General obligation bonds authorized—Additional bonds authorized, restriction) and 1981 c 327 s 3 & 1979 ex.s. c 212 s 6;

(59) RCW 47.56.746 (Columbia river bridge at Horn Rapids—Bonds—Issuance, sale, retirement supervised by state finance committee) and 1979 ex.s. c 212 s 7;

(60) RCW 47.56.747 (Columbia river bridge at Horn Rapids—Bonds—Term—Terms and conditions—Signatures—Registration—Where payable—Negotiable instruments—Legal investment for state funds—Bond anticipation notes) and 1979 ex.s. c 212 s 8;

(61) RCW 47.56.748 (Columbia river bridge at Horn Rapids—Bonds—Bond proceeds—Deposit and use) and 1981 c 327 s 4 & 1979 ex.s. c 212 s 9;

(62) RCW 47.56.749 (Columbia river bridge at Horn Rapids—Bonds—Statement describing nature of obligation—Sources of payment) and 1995 c 274 s 15 & 1979 ex.s. c 212 s 10;

(63) RCW 47.56.750 (Columbia river bridge at Horn Rapids—Bonds—Account created in highway bond retirement fund—Deposit of revenue—Pledge of excise taxes—Repayment procedure—Legislative covenant) and 1999 c 269 s 13, 1995 c 274 s 16, & 1979 ex.s. c 212 s 11;

(64) RCW 47.56.751 (Columbia river bridge at Horn Rapids—Operation by department of transportation—Amount and duration of tolls—Use of motor vehicle fund moneys—Priority of payments—Trust fund—Covenants by state finance committee) and 1979 ex.s. c 212 s 12;

(65) RCW 47.56.752 (Columbia river bridge at Horn Rapids—Toll revenue trust fund—Transfer of surplus moneys) and 1979 ex.s. c 212 s 13;

(66) RCW 47.56.753 (Columbia river bridge at Horn Rapids—Repayment of motor vehicle fund money—Continuation of tolls) and 1979 ex.s. c 212 s 14;

(67) RCW 47.56.754 (Columbia river bridge at Horn Rapids—Ferries, urban arterials, Spokane river toll bridges, bonds—Lien against fuel tax revenues) and 1979 ex.s. c 212 s 15;

(68) RCW 47.56.755 (Columbia river bridge at Horn Rapids—When toll free—Conveyance to city or counties) and 1979 ex.s. c 212 s 16;

(69) RCW 47.56.756 (Additional bridge at Columbia Point authorized) and 1979 ex.s. c 212 s 17;

(70) RCW 47.56.760 (First Avenue South bridge in Seattle—Study by commission—Bonds, tolls—Additional funding) and 1987 c 510 s 1;

(71) RCW 47.56.761 (First Avenue South bridge in Seattle—Study by city—Tolls—Revenues) and 1987 c 510 s 2;

(72) RCW 47.58.500 (Manette bridge—Port Washington Narrows project) and 1961 c 13 s 47.58.500;

(73) RCW 47.60.445 (Hood Canal bridge—Tolls, upkeep costs) and 1990 c 42 s 409;

(74) RCW 47.60.450 (Additional revenue bonds, refunding bonds, authorized, 1961 Act—Revision of tolls to meet debt service) and 1986 c 66 s 7, 1984 c 7 s 331, & 1961 ex.s. c 9 s 6;

(75) RCW 47.60.502 (Hood Canal bridge—Legislative finding—Authority to restore or replace) and 1979 c 27 s 1; and

(76) RCW 47.60.503 (Hood Canal bridge—Authority to obtain federal emergency relief funds) and 1979 c 27 s 2.

Passed by the Senate April 18, 2005.

Passed by the House April 15, 2005.

Approved by the Governor May 9, 2005, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 9, 2005.

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

"I am returning, without my approval as to Section 1, Substitute Senate Bill No. 5139 entitled:

"AN ACT Relating to highway and bridge tolling authority."

Section 1 of Substitute Senate Bill No. 5139 transfers the authority for approving construction of toll roads from the Department of Transportation (Department) to the Transportation Commission (Commission). Now that the Commission no longer has oversight authority, and the Department is a cabinet level agency, it is inappropriate for the Commission to be approving construction of transportation facilities.

For these reasons, I have vetoed Section 1 of Substitute Senate Bill No. 5139.

With the exception of Section 1, Substitute Senate Bill No. 5139 is approved."

CHAPTER 336

[Substitute Senate Bill 5177]

TRANSPORTATION BENEFIT DISTRICTS

AN ACT Relating to transportation benefit districts; amending RCW 36.73.010, 36.73.020, 36.73.040, 36.73.050, 36.73.060, 36.73.070, 36.73.080, 36.73.100, 36.73.110, 36.73.120, 36.73.130, 36.73.140, 36.73.150, 82.14.060, 35.21.225, 47.56.075, and 82.80.030; reenacting and amending RCW 82.14.050; adding new sections to chapter 36.73 RCW; adding a new section to chapter 82.14 RCW; adding a new section to chapter 82.80 RCW; adding a new section to chapter 47.56 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 36.73 RCW to read as follows:

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

(1) "District" means a transportation benefit district created under this chapter.

(2) "City" means a city or town.

(3) "Transportation improvement" means a project contained in the transportation plan of the state or a regional transportation planning organization that is of statewide or regional significance. A project may include investment in new or existing highways of statewide significance, principal arterials of regional significance, high-capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management. Projects may also include the operation, preservation, and maintenance of these facilities or programs. Not more than forty percent of the revenues generated by a district may be expended on city streets, county roads, existing highways other than highways of statewide significance, and the creation of a new highway that intersects with a highway of statewide significance.

Sec. 2. RCW 36.73.010 and 1987 c 327 s 1 are each amended to read as follows:

The legislature finds that the citizens of the state can benefit by cooperation of the public and private sectors in addressing transportation needs. This cooperation can be fostered through enhanced capability for cities, towns, and counties to make and fund transportation improvements necessitated by economic development and to improve the performance of the transportation system.

It is the intent of the legislature to encourage joint efforts by the state, local governments, and the private sector to respond to the need for those transportation improvements on state highways, county roads, and city streets.

This goal can be better achieved by allowing cities, towns, and counties to establish transportation benefit districts in order to respond to the special transportation needs and economic opportunities resulting from private sector development for the public good. The legislature also seeks to facilitate the equitable participation of private developers whose developments may generate the need for those improvements in the improvement costs.

Sec. 3. RCW 36.73.020 and 1989 c 53 s 1 are each amended to read as follows:

(1) The legislative authority of a county or city may establish ~~((one or more))~~ a transportation benefit district~~((s))~~ within the county or city area or within the area specified in subsection (2) of this section, for the purpose of acquiring, constructing, improving, providing, and funding ~~((any city street, county road, or state highway))~~ a transportation improvement within the district that is ~~((1))~~ consistent with any existing state, regional, and local transportation plans~~((2))~~ and necessitated by existing or reasonably foreseeable congestion levels ~~((attributable to economic growth, and (3) partially funded by local government or private developer contributions, or a combination of such contributions)). ((Such))~~ The transportation improvements shall be owned by the county of jurisdiction if located in an unincorporated area, by the city of jurisdiction if located in an incorporated area, or by the state in cases where the transportation improvement is or becomes a state highway~~((; and all such))~~. However, if deemed appropriate by the governing body of the transportation benefit district, a transportation improvement may be owned by a participating port district or transit district, unless otherwise prohibited by law. Transportation improvements shall be administered and maintained as other public streets, roads, ~~((and))~~ highways, and transportation improvements. ~~((The district may not include any area within the corporate limits of a city unless the city legislative authority has agreed to the inclusion pursuant to chapter 39.34 RCW. The agreement shall specify the area and such powers as may be granted to the benefit district.))~~ To the extent practicable, the district shall consider the following criteria when selecting transportation improvements:

- (a) Reduced risk of transportation facility failure and improved safety;
- (b) Improved travel time;
- (c) Improved air quality;
- (d) Increases in daily and peak period trip capacity;
- (e) Improved modal connectivity;
- (f) Improved freight mobility;
- (g) Cost-effectiveness of the investment;
- (h) Optimal performance of the system through time; and
- (i) Other criteria, as adopted by the governing body.

(2) Subject to subsection (6) of this section, the district may include area within more than one county, city, port district, county transportation authority, or public transportation benefit area, if the legislative authority of each participating jurisdiction has agreed to the inclusion as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW. However, the boundaries of the district shall include all territory within the boundaries of the participating jurisdictions comprising the district.

(3) The members of the ~~((county))~~ legislative authority proposing to establish the district, acting ex officio and independently, shall ~~((compose))~~

constitute the governing body of the district: PROVIDED, That where a ((transportation benefit)) district includes ((any portion of an incorporated city, town, or another county, the district may be governed as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW)) area within more than one jurisdiction under subsection (2) of this section, the district shall be governed under an interlocal agreement adopted pursuant to chapter 39.34 RCW. However, the governing body shall be composed of at least five members including at least one elected official from the legislative authority of each participating jurisdiction.

(4) The ((county)) treasurer of the jurisdiction proposing to establish the district shall act as the ex officio treasurer of the district, unless an interlocal agreement states otherwise.

(5) The electors of the district shall all be registered voters residing within the district. ((For purposes of this section, the term "city" means both cities and towns:))

(6) The authority under this section, regarding the establishment of or the participation in a district, shall not apply to:

(a) Counties with a population greater than one million five hundred thousand persons and any adjoining counties with a population greater than five hundred thousand persons;

(b) Cities with any area within the counties under (a) of this subsection; and

(c) Other jurisdictions with any area within the counties under (a) of this subsection.

Sec. 4. RCW 36.73.040 and 1989 c 53 s 3 are each amended to read as follows:

(1) A transportation benefit district is a quasi-municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(2) A transportation benefit district constitutes a body corporate and possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to acquire, hold, and dispose of real and personal property, and to sue and be sued. Public works contract limits applicable to the jurisdiction that established the district ((shall)) apply to the district.

(3) To carry out the purposes of this chapter, and subject to the provisions of section 17 of this act, a district is authorized to impose the following taxes, fees, charges, and tolls:

(a) A sales and use tax in accordance with section 15 of this act;

(b) A vehicle fee in accordance with section 16 of this act;

(c) A fee or charge in accordance with RCW 36.73.120. However, if a county or city within the district area is levying a fee or charge for a transportation improvement, the fee or charge shall be credited against the amount of the fee or charge imposed by the district. Developments consisting of less than twenty residences are exempt from the fee or charge under RCW 36.73.120; and

(d) Vehicle tolls on state routes or federal highways, city streets, or county roads, within the boundaries of the district, unless otherwise prohibited by law.

The department of transportation shall administer the collection of vehicle tolls authorized on state routes or federal highways, unless otherwise specified in law or by contract, and the state transportation commission, or its successor, may approve, set, and impose the tolls in amounts sufficient to implement the district's transportation improvement finance plan. The district shall administer the collection of vehicle tolls authorized on city streets or county roads, and shall set and impose, only with approval of the transportation commission, or its successor, the tolls in amounts sufficient to implement the district's transportation improvement plan.

Sec. 5. RCW 36.73.050 and 1987 c 327 s 5 are each amended to read as follows:

(1) ~~((A city or county))~~ The legislative ~~((authority))~~ authorities proposing to establish a ~~((transportation benefit))~~ district, or to modify the boundaries of an existing district, or to dissolve an existing district~~((s))~~ shall conduct a hearing at the time and place specified in a notice published at least once, not less than ten days before the hearing, in a newspaper of general circulation within the proposed district. Subject to the provisions of section 19 of this act, the legislative ~~((authority))~~ authorities shall make provision for a district to be automatically dissolved when all indebtedness of the district has been retired and anticipated responsibilities have been satisfied. This notice shall be in addition to any other notice required by law to be published. The notice shall, where applicable, specify the functions or activities proposed to be provided or funded, or the additional functions or activities proposed to be provided or funded, by the district. Additional notice of the hearing may be given by mail, by posting within the proposed district, or in any manner the ~~((city or county))~~ legislative ~~((authority deems))~~ authorities deem necessary to notify affected persons. All hearings shall be public and the ~~((city or county))~~ legislative ~~((authority))~~ authorities shall hear objections from any person affected by the formation, modification of the boundaries, or dissolution of the district.

(2) Following the hearing held pursuant to subsection (1) of this section, the ~~((city or county))~~ legislative ~~((authority))~~ authorities may establish a ~~((transportation benefit))~~ district, modify the boundaries or functions of an existing district, or dissolve an existing district, if the ~~((city or county))~~ legislative ~~((authority finds))~~ authorities find the action to be in the public interest and ~~((adopts))~~ adopt an ordinance providing for the action. The ordinance establishing a district shall specify the functions or activities to be exercised or funded and establish the boundaries of the district. ~~((A district shall include only those areas which can reasonably be expected to benefit from improvements to be funded by the district.))~~ Subject to the provisions of section 18 of this act, functions or activities proposed to be provided or funded by the district may not be expanded beyond those specified in the notice of hearing, unless additional notices are made, further hearings on the expansion are held, and further determinations are made that it is in the public interest to so expand the functions or activities proposed to be provided or funded.

~~((3) At any time before the city or county legislative authority establishes a transportation benefit district pursuant to this section, all further proceedings shall be terminated upon the filing of a verified declaration of termination signed by the owners of real property consisting of at least sixty percent of the assessed valuation in the proposed district.))~~

Sec. 6. RCW 36.73.060 and 1987 c 327 s 6 are each amended to read as follows:

(1) A (~~(transportation benefit)~~) district may levy an ad valorem property tax in excess of the one percent limitation upon the property within the district for a one-year period whenever authorized by the voters of the district pursuant to RCW 84.52.052 and Article VII, section 2(a) of the state Constitution.

(2) A district may provide for the retirement of voter-approved general obligation bonds, issued for capital purposes only, by levying bond retirement ad valorem property tax levies in excess of the one percent limitation whenever authorized by the voters of the district pursuant to Article VII, section 2(b) of the state Constitution and RCW 84.52.056.

Sec. 7. RCW 36.73.070 and 1987 c 327 s 7 are each amended to read as follows:

(1) To carry out the purposes of this chapter and notwithstanding RCW 39.36.020(1), a (~~(transportation benefit)~~) district may issue general obligation bonds, not to exceed an amount, together with any other outstanding nonvoter-approved general obligation indebtedness, equal to (~~(three eighths of)~~) one and one-half percent of the value of taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015. A district may additionally issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to (~~(one and one fourth)~~) five percent of the value of the taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015, when authorized by the voters of the district pursuant to Article VIII, section 6 of the state Constitution, and (~~(to)~~) may also provide for the retirement thereof by excess property tax levies as provided in RCW 36.73.060(2). The district may, if applicable, submit a single proposition to the voters that, if approved, authorizes both the issuance of the bonds and the bond retirement property tax levies.

(2) General obligation bonds with a maturity in excess of forty years shall not be issued. The governing body of the (~~(transportation benefit)~~) district shall by resolution determine for each general obligation bond issue the amount, date, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, manner of execution, manner of sale, callable provisions, if any, covenants, and form, including registration as to principal and interest, registration as to principal only, or bearer. Registration may include, but not be limited to: (a) A book entry system of recording the ownership of a bond whether or not physical bonds are issued; or (b) recording the ownership of a bond together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond and either the reissuance of the old bond or the issuance of a new bond to the new owner. Facsimile signatures may be used on the bonds and any coupons. Refunding general obligation bonds may be issued in the same manner as general obligation bonds are issued.

(3) Whenever general obligation bonds are issued to fund specific projects or enterprises that generate revenues, charges, user fees, or special assessments, the (~~(transportation benefit)~~) district (~~(which issues the bonds)~~) may specifically pledge all or a portion of the revenues, charges, user fees, or special assessments

to refund the general obligation bonds. The district may also pledge any other revenues that may be available to the district.

(4) In addition to general obligation bonds, a district may issue revenue bonds to be issued and sold in accordance with chapter 39.46 RCW.

Sec. 8. RCW 36.73.080 and 1987 c 327 s 8 are each amended to read as follows:

(1) A (~~transportation benefit~~) district may form a local improvement district to provide any transportation improvement it has the authority to provide, impose special assessments on all property specially benefited by the transportation improvements, and issue special assessment bonds or revenue bonds to fund the costs of the transportation improvement. Local improvement districts shall be created and administered, and assessments shall be made and collected, in the manner and to the extent provided by law to cities and towns pursuant to chapters 35.43, 35.44, 35.49, 35.50, 35.51, 35.53, and 35.54 RCW. However, the duties devolving upon the city or town treasurer under these chapters shall be imposed upon the district treasurer for the purposes of this section. A local improvement district may only be formed under this section pursuant to the petition method under RCW 35.43.120 and 35.43.125.

(2) The governing body of a (~~transportation benefit~~) district shall by resolution establish for each special assessment bond issue the amount, date, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, if any, covenants, and form, including registration as to principal and interest, registration as to principal only, or bearer. Registration may include, but not be limited to: (a) A book entry system of recording the ownership of a bond whether or not physical bonds are issued; or (b) recording the ownership of a bond together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond and either the reissuance of the old bond or the issuance of a new bond to the new owner. Facsimile signatures may be used on the bonds and any coupons. The maximum term of any special assessment bonds shall not exceed thirty years beyond the date of issue. Special assessment bonds issued pursuant to this section shall not be an indebtedness of the (~~transportation benefit~~) district issuing the bonds, and the interest and principal on the bonds shall only be payable from special assessments made for the improvement for which the bonds were issued and any local improvement guaranty fund that the (~~transportation benefit~~) district has created. The owner or bearer of a special assessment bond or any interest coupon issued pursuant to this section shall not have any claim against the (~~transportation benefit~~) district arising from the bond or coupon except for the payment from special assessments made for the improvement for which the bonds were issued and any local improvement guaranty fund the (~~transportation benefit~~) district has created. The district issuing the special assessment bonds is not liable to the owner or bearer of any special assessment bond or any interest coupon issued pursuant to this section for any loss occurring in the lawful operation of its local improvement guaranty fund. The substance of the limitations included in this subsection (2) shall be plainly printed, written, or engraved on each special assessment bond issued pursuant to this section.

(3) Assessments shall reflect any credits given by a ~~((transportation benefit))~~ district for real property or property right donations made pursuant to RCW 47.14.030.

(4) The governing body may establish, administer, and pay ~~((moneys))~~ money into a local improvement guaranty fund, in the manner and to the extent provided by law to cities and towns under chapter 35.54 RCW, to guarantee special assessment bonds issued by the ~~((transportation benefit))~~ district.

Sec. 9. RCW 36.73.100 and 1987 c 327 s 10 are each amended to read as follows:

(1) The proceeds of any bond issued pursuant to RCW 36.73.070 or 36.73.080 may be used to pay costs incurred on ~~((such))~~ a bond issue related to the sale and issuance of the bonds. ~~((Such))~~ These costs include payments for fiscal and legal expenses, obtaining bond ratings, printing, engraving, advertising, and other similar activities.

(2) In addition, proceeds of bonds used to fund capital projects may be used to pay the necessary and related engineering, architectural, planning, and inspection costs.

Sec. 10. RCW 36.73.110 and 1987 c 327 s 11 are each amended to read as follows:

A ~~((transportation benefit))~~ district may accept and expend or use gifts, grants, and donations.

Sec. 11. RCW 36.73.120 and 1988 c 179 s 7 are each amended to read as follows:

(1) ~~((A transportation benefit))~~ Subject to the provisions in section 17 of this act, a district may impose a fee or charge on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance ~~((thereto))~~, or on the development, subdivision, classification, or reclassification of land, only if done in accordance with chapter 39.92 RCW.

(2) Any fee or charge imposed under this section shall be used exclusively for transportation improvements constructed by a ~~((transportation benefit))~~ district. The fees or charges ~~((so))~~ imposed must be reasonably necessary as a result of the impact of development, construction, or classification or reclassification of land on identified transportation needs.

(3) ~~((When fees or charges are imposed by a district within which there is more than one city or both incorporated and unincorporated areas, the legislative authority for each city in the district and the county legislative authority for the unincorporated area must approve the imposition of such fees or charges before they take effect.))~~ If a county or city within the district area is levying a fee or charge for a transportation improvement, the fee or charge shall be credited against the amount of the fee or charge imposed by the district.

(4) Developments consisting of less than twenty residences are exempt from the fee or charge under this section.

Sec. 12. RCW 36.73.130 and 1987 c 327 s 13 are each amended to read as follows:

A ~~((transportation benefit))~~ district may exercise the power of eminent domain to obtain property for its authorized purposes in the same manner as authorized for the city or county legislative authority that established the district.

Sec. 13. RCW 36.73.140 and 1987 c 327 s 14 are each amended to read as follows:

A (~~transportation benefit~~) district has the same powers as a county or city to contract for street, road, or state highway improvement projects and to enter into reimbursement contracts provided for in chapter 35.72 RCW.

Sec. 14. RCW 36.73.150 and 1987 c 327 s 15 are each amended to read as follows:

The department of transportation, counties, (~~and~~) cities, and other jurisdictions may give funds to (~~transportation benefit~~) districts for the purposes of financing (~~street, road, or highway~~) transportation improvements (~~projects~~) under this chapter.

NEW SECTION. Sec. 15. A new section is added to chapter 82.14 RCW to read as follows:

(1) Subject to the provisions in section 17 of this act, a transportation benefit district under chapter 36.73 RCW may fix and impose a sales and use tax in accordance with the terms of this chapter. The tax authorized in this section is in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the boundaries of the district. The rate of tax shall not exceed two-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. The tax may not be imposed for a period exceeding ten years. This tax may be extended for a period not exceeding ten years with an affirmative vote of the voters voting at the election.

(2) Money received from the tax imposed under this section must be spent in accordance with the requirements of chapter 36.73 RCW.

(3) A district may only levy the tax under this section if the district is comprised of boundaries coextensive with the boundaries of a county, counties, city or cities, a county transportation authority or authorities, a public transportation benefit area or areas, or any combination of these jurisdictions.

NEW SECTION. Sec. 16. A new section is added to chapter 82.80 RCW to read as follows:

(1) Subject to the provisions of section 17 of this act, a transportation benefit district under chapter 36.73 RCW may fix and impose an annual vehicle fee, not to exceed one hundred dollars per vehicle registered in the district, for each vehicle subject to license tab fees under RCW 46.16.0621 and for each vehicle subject to gross weight fees under RCW 46.16.070 with an unladen weight of six thousand pounds or less.

(2) The department of licensing shall administer and collect the fee. The department shall deduct a percentage amount, as provided by contract, not to exceed one percent of the fees collected, for administration and collection expenses incurred by it. The department shall remit remaining proceeds to the custody of the state treasurer. The state treasurer shall distribute the proceeds to the district on a monthly basis.

(3) No fee under this section may be collected until six months after approval by the district voters under section 17 of this act.

(4) The vehicle fee under this section applies only when renewing a vehicle registration, and is effective upon the registration renewal date as provided by the department of licensing.

(5) The following vehicles are exempt from the fee under this section:

(a) Farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181;

(b) Off-road and nonhighway vehicles as defined in RCW 46.09.020;

(c) Vehicles registered under chapter 46.87 RCW and the international registration plan; and

(d) Snowmobiles as defined in RCW 46.10.010.

NEW SECTION. Sec. 17. A new section is added to chapter 36.73 RCW to read as follows:

(1) Taxes, fees, charges, and tolls may not be imposed by a district without approval of a majority of the voters in the district voting on a proposition at a general or special election. The proposition must include a specific description of the transportation improvement or improvements proposed by the district and the proposed taxes, fees, charges, and the range of tolls imposed by the district to raise revenue to fund the improvement or improvements.

(2) Voter approval under this section shall be accorded substantial weight regarding the validity of a transportation improvement as defined in section 1 of this act.

(3) A district may not increase any taxes, fees, charges, or range of tolls imposed under this chapter once the taxes, fees, charges, or tolls take effect, unless authorized by the district voters pursuant to section 18 of this act.

NEW SECTION. Sec. 18. A new section is added to chapter 36.73 RCW to read as follows:

(1) The district governing body shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan. The policy must at least address material changes to cost, scope, and schedule, the level of change that will require governing body involvement, and how the governing body will address those changes. At a minimum, in the event that a transportation improvement cost exceeds its original cost by more than twenty percent as identified in a district's original finance plan, the governing body shall hold a public hearing to solicit comment from the public regarding how the cost change should be resolved.

(2) A district shall issue an annual report, indicating the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules, to the public and to newspapers of record in the district.

NEW SECTION. Sec. 19. A new section is added to chapter 36.73 RCW to read as follows:

Within thirty days of the completion of the construction of the transportation improvement or series of improvements authorized by a district, the district shall terminate day-to-day operations and exist solely as a limited entity that oversees the collection of revenue and the payment of debt service or financing still in effect, if any and to carry out the requirements of section 18 of this act. The district shall accordingly adjust downward its employees, administration, and overhead expenses. Any taxes, fees, charges, or tolls imposed by the district

terminate when the financing or debt service on the transportation improvement or series of improvements constructed is completed and paid and notice is provided to the departments administering the taxes. Any excess revenues collected must be disbursed to the participating jurisdictions of the district in proportion to their population, using population estimates prepared by the office of financial management. The district shall dissolve itself and cease to exist thirty days after the financing or debt service on the transportation improvement, or series of improvements, constructed is completed and paid. If there is no debt outstanding, then the district shall dissolve within thirty days from completion of construction of the transportation improvement or series of improvements authorized by the district. Notice of dissolution must be published in newspapers of general circulation within the district at least three times in a period of thirty days. Creditors must file claims for payment of claims due within thirty days of the last published notice or the claim is extinguished.

Sec. 20. RCW 82.14.050 and 2003 c 168 s 201 and 2003 c 83 s 208 are each reenacted and amended to read as follows:

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, ~~((and))~~ regional transportation investment districts, and transportation benefit districts under chapter 36.73 RCW shall 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 shall 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 shall be deposited by the state department of revenue in the local sales and use tax account hereby created in the state treasury. Moneys in the local sales and use tax account may be spent only for distribution to counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, ~~((and))~~ regional transportation investment districts, and transportation benefit districts imposing a sales and use tax. All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW, as they now exist or may hereafter be amended, shall, insofar as they are applicable to state sales and use taxes, be applicable to taxes imposed pursuant to this chapter. 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. Except as provided in RCW 43.08.190, all earnings of investments of balances in the local sales and use tax account shall 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, ~~((and))~~ regional transportation investment districts, and transportation benefit districts monthly.

Sec. 21. RCW 82.14.060 and 1991 c 207 s 3 are each amended to read as follows:

Monthly the state treasurer shall make distribution from the local sales and use tax account to the counties, cities, transportation authorities, ~~((and))~~ public facilities districts, and transportation benefit districts the amount of tax collected

on behalf of each taxing authority, less the deduction provided for in RCW 82.14.050. The state treasurer shall make the distribution under this section without appropriation.

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 shall 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.

Sec. 22. RCW 35.21.225 and 1989 c 53 s 2 are each amended to read as follows:

~~The legislative authority of a city may establish ((one or more transportation benefit districts within a city for the purpose of acquiring, constructing, improving, providing, and funding any city street, county road, or state highway improvement that is (1) consistent with state, regional, and local transportation plans, (2) necessitated by existing or reasonably foreseeable congestion levels attributable to economic growth, and (3) partially funded by local government or private developer contributions, or a combination of such contributions. Such transportation improvements shall be owned by the city of jurisdiction if located in an incorporated area, by the county of jurisdiction if located in an unincorporated area, or by the state in cases where the transportation improvement is or becomes a state highway; and all such transportation improvements shall be administered as other public streets, roads, and highways. The district may include any area within the corporate limits of another city if that city has agreed to the inclusion pursuant to chapter 39.34 RCW. The district may include any unincorporated area if the county legislative authority has agreed to the inclusion pursuant to chapter 39.34 RCW. The agreement shall specify the area and such other powers as may be granted to the benefit district.~~

~~The members of the city legislative authority, acting ex officio and independently, shall compose the governing body of the district. The city treasurer shall act as the ex officio treasurer of the district: PROVIDED, That where a transportation benefit district includes any unincorporated area or portion of another city, the district may be governed as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW. The electors of the district shall all be registered voters residing within the district. For the purposes of this section, the term "city" means both cities and towns)) a transportation benefit district subject to the provisions of chapter 36.73 RCW.~~

***Sec. 23.** *RCW 47.56.075 and 2002 c 56 s 404 are each amended to read as follows:*

The ((~~department~~)) commission shall approve for construction only such toll roads as the legislature specifically authorizes or such toll facilities as are specifically sponsored by a regional transportation investment district, transportation benefit district, city, town, or county.

**Sec. 23 was vetoed. See message at end of chapter.*

Sec. 24. RCW 82.80.030 and 2002 c 56 s 412 are each amended to read as follows:

(1) Subject to the conditions of this section, the legislative authority of a county, city, or district may fix and impose a parking tax on all persons engaged in a commercial parking business within its respective jurisdiction. A city or county may impose the tax only to the extent that it has not been imposed by the

district, and a district may impose the tax only to the extent that it has not been imposed by a city or county. The jurisdiction of a county, for purposes of this section, includes only the unincorporated area of the county. The jurisdiction of a city or district includes only the area within its boundaries.

(2) In lieu of the tax in subsection (1) of this section, a city, a county in its unincorporated area, or a district may fix and impose a tax for the act or privilege of parking a motor vehicle in a facility operated by a commercial parking business.

The city, county, or district may provide that:

- (a) The tax is paid by the operator or owner of the motor vehicle;
- (b) The tax applies to all parking for which a fee is paid, whether paid or leased, including parking supplied with a lease of nonresidential space;
- (c) The tax is collected by the operator of the facility and remitted to the city, county, or district;
- (d) The tax is a fee per vehicle or is measured by the parking charge;
- (e) The tax rate varies with zoning or location of the facility, the duration of the parking, the time of entry or exit, the type or use of the vehicle, or other reasonable factors; and
- (f) Tax exempt carpools, vehicles with handicapped decals, or government vehicles are exempt from the tax.

(3) "Commercial parking business" as used in this section, means the ownership, lease, operation, or management of a commercial parking lot in which fees are charged. "Commercial parking lot" means a covered or uncovered area with stalls for the purpose of parking motor vehicles.

(4) The rate of the tax under subsection (1) of this section may be based either upon gross proceeds or the number of vehicle stalls available for commercial parking use. The rates charged must be uniform for the same class or type of commercial parking business.

(5) The county, city, or district levying the tax provided for in subsection (1) or (2) of this section may provide for its payment on a monthly, quarterly, or annual basis. Each local government may develop by ordinance or resolution rules for administering the tax, including provisions for reporting by commercial parking businesses, collection, and enforcement.

(6) The proceeds of the commercial parking tax fixed and imposed by a city or county under subsection (1) or (2) of this section shall be used (~~strictly~~) for transportation purposes in accordance with RCW 82.80.070 or for transportation improvements in accordance with chapter 36.73 RCW. The proceeds of the parking tax imposed by a district must be used as provided in chapter 36.120 RCW.

NEW SECTION. Sec. 25. A new section is added to chapter 47.56 RCW to read as follows:

Subject to the provisions under chapter 36.73 RCW, a transportation benefit district may authorize vehicle tolls on state routes or federal highways, city streets, or county roads, within the boundaries of the district, unless otherwise prohibited by law. The department of transportation shall administer the collection of vehicle tolls authorized on state routes or federal highways, unless otherwise specified in law or by contract, and the state transportation commission, or its successor, may approve, set, and impose the tolls in amounts sufficient to implement the district's transportation improvement finance plan.

The district shall administer the collection of vehicle tolls authorized on city streets or county roads, and shall set and impose the tolls, only with approval of the transportation commission, in amounts sufficient to implement the district's transportation improvement plan. Tolls may vary for type of vehicle, for time of day, for traffic conditions, and/or other factors designed to improve performance of the facility or the transportation network.

NEW SECTION, Sec. 26. This act takes effect August 1, 2005.

Passed by the Senate April 23, 2005.

Passed by the House April 22, 2005.

Approved by the Governor May 9, 2005, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 9, 2005.

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

"I am returning, without my approval as to Section 23, Substitute Senate Bill No. 5177 entitled:

"AN ACT Relating to transportation benefit districts."

Section 23 of Substitute Senate Bill No. 5177 transfers the authority for approving construction of toll roads from the Department of Transportation (Department) to the Transportation Commission (Commission). Now that the Commission no longer possesses oversight authority, and the Department is now a cabinet level agency, it is inappropriate for the Commission to be approving construction of transportation facilities.

For these reasons, I have vetoed Section 23 of Substitute Senate Bill No. 5177.

With the exception of Section 23, Substitute Senate Bill No. 5177 is approved."

CHAPTER 337

[Senate Bill 5196]

INSURANCE—EMPLOYER-OWNED LIFE INSURANCE

AN ACT Relating to insurable interests and employer-owned life insurance; amending RCW 48.18.010, 48.18.030, and 48.18.060; adding new sections to chapter 48.18 RCW; and creating new sections.

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

NEW SECTION, Sec. 1. The legislature finds that there is a long-standing principle that corporations have an insurable interest in the lives of key personnel. Nationally, some corporations have begun to insure the lives of personnel that have not met the insurable interest standard of Washington. Entry-level workers have been insured by their corporate employer for the benefit of the corporate employer. The legislature intends to clarify this subject and preclude corporations from insuring the lives of employees when the employees are not key personnel and the corporations have no insurable interest in the lives of those employees.

Sec. 2. RCW 48.18.010 and 1947 c 79 s .18.01 are each amended to read as follows:

~~((The applicable provisions of this chapter shall apply to insurances other than ocean marine and foreign trade insurances. This chapter shall not apply to life or disability insurance policies not issued for delivery in this state nor~~

~~delivered in this state.)~~ This chapter applies to insurances other than ocean marine and foreign trade insurances.

Sec. 3. RCW 48.18.030 and 1992 c 51 s 1 are each amended to read as follows:

(1) Any individual of competent legal capacity may ~~((procure or effect an insurance contract upon))~~ insure his or her own life or body for the benefit of any person. ~~((But no))~~ A person ~~((shall procure or cause to be procured any insurance contract upon))~~ may not insure the life or body of another individual unless the benefits under ~~((such))~~ the contract are payable to the individual insured or ~~((his))~~ the individual's personal representative(s), or to a person having, at the time when ~~((such))~~ the contract was made, an insurable interest in the individual insured.

(2) If the beneficiary, assignee or other payee under any contract made in violation of this section receives from the insurer any benefits ~~((thereunder))~~ accruing upon the death, ~~((disablement))~~ disability, or injury of the individual insured, the individual insured or ~~((his))~~ the individual's executor or administrator~~((, as the case may be,))~~ may maintain an action to recover ~~((such))~~ any benefits from the person ~~((so))~~ receiving them.

(3)~~(a)~~ "Insurable interest" as used in this section and in RCW 48.18.060 includes only the following interests ~~((as follows))~~:

~~((a))~~ (i) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection; and

~~((b))~~ (ii) In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest ~~((which))~~ that would arise only by, or would be enhanced in value by, the death, ~~((disablement))~~ disability, or injury of the individual insured.

~~((c))~~ (b) An individual ~~((heretofore or hereafter))~~ who is party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a close corporation or of an interest in ~~((such))~~ those shares, has an insurable interest in the life of each individual party to ~~((such))~~ the contract and for the purposes of ~~((such))~~ that contract only, in addition to any insurable interest ~~((which))~~ that may otherwise exist as to the life of such individual.

~~((d))~~ (c) A guardian, trustee, or other fiduciary has an insurable interest in the life of any person for whose benefit the fiduciary holds property, and in the life of any other individual in whose life ~~((such))~~ the person has an insurable interest.

~~((e))~~ (d) Subject to rules adopted under subsection (4) of this section, upon joint application with a nonprofit organization for, or transfer to a nonprofit organization of, an insurance policy on the life of a person naming the organization as owner and beneficiary, a nonprofit organization's interest in the life of a person if:

(i) The nonprofit organization was established exclusively for religious, charitable, scientific, literary, or educational purposes, or to promote amateur athletic competition, to conduct testing for public safety, or to prevent cruelty to children or animals; and

(ii) The nonprofit organization:

(A) Has existed for a minimum of five years; or

(B) Has been issued a certificate of exemption to conduct a charitable gift annuity business under RCW 48.38.010, or is authorized to conduct a charitable gift annuity business under RCW 28B.10.485; or

(C) Has been organized, and at all times has been operated, exclusively for benefit of, to perform the functions of, or to carry out the purposes of one or more nonprofit organizations described in ~~((e))~~ (d)(ii)(A) or (B) of this subsection and is operated, supervised, or controlled by or in connection with one or more ~~((such))~~ of those nonprofit organizations; and

(iii) For a joint application, the person is not an employee, officer, or director of the organization who receives significant compensation from the organization and who became affiliated with the organization in that capacity less than one year before the joint application.

(4) The commissioner may adopt rules governing joint applications for, and transfers of, life insurance under subsection ~~(3)((e))~~ (d) of this section. The rules may include:

(a) Standards for full and fair disclosure that set forth the manner, content, and required disclosure for the sale of life insurance issued under subsection ~~(3)((e))~~ (d) of this section; and

(b) For joint applications, a grace period of thirty days during which the insured person may direct the nonprofit organization to return the policy and the insurer to refund any premium paid to the party that, directly or indirectly, paid the premium; and

(c) Standards for granting an exemption from the five-year existence requirement of subsection ~~(3)((e))~~ (d)(ii)(A) of this section to a private foundation that files with the insurance commissioner documents, stipulations, and information as the insurance commissioner may require to carry out the purpose of subsection ~~(3)((e))~~ (d) of this section.

(5) Nothing in this section permits the personal representative of the insured's estate to recover the proceeds of a policy on the life of a deceased insured person that was applied for jointly by, or transferred to, an organization covered by subsection ~~(3)((e))~~ (d) of this section, where the organization was named owner and beneficiary of the policy.

This subsection applies to all life insurance policies applied for by, or transferred to, an organization covered by subsection ~~(3)((e))~~ (d) of this section, regardless of the time of application or transfer and regardless of whether the organization would have been covered at the time of application or transfer.

NEW SECTION. Sec. 4. A new section is added to chapter 48.18 RCW to read as follows:

(1) "Employer-owned life insurance policy" as used in this section and section 6 of this act means an insurance policy purchased by an employer on the life of an employee, for the benefit of a person other than the employee or the employee's personal representative.

(2) An employer-owned life insurance policy may not be made or take effect unless at the time the contract is made the individual insured consents to the contract in writing.

(3) An employer may not retaliate in any manner against an employee for providing written notice that he or she does not want to be insured under an employer-owned life insurance policy.

(4) No later than thirty days after the date on which an employer purchases an employer-owned life insurance policy on the life of an employee, the employer must provide to the employee a written notice that contains the following information:

- (a) A statement that the employer carries an employer-owned life insurance policy on the life of the employee;
- (b) The identity of the insurance carrier of the policy;
- (c) The maximum face amount of the policy at issue; and
- (d) The identity of the beneficiary of the policy.

Sec. 5. RCW 48.18.060 and 1947 c 79 s .18.06 are each amended to read as follows:

~~(No)~~ A life or disability insurance contract upon an individual (except a contract of group life insurance or of group or blanket disability insurance as defined in this code, shall) may not be made or (effectuated) take effect unless at the time (of the making of) the contract is made the individual insured (being of competent legal capacity to contract, in writing applies therefor or consents thereto,) applies for or consents to the contract in writing, except in the following cases:

(1) A spouse may ~~(effectuate such insurance upon)~~ insure the life of the other spouse.

(2) Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may ~~(effectuate insurance upon)~~ insure the life of the minor.

(3) A contract of group or blanket disability insurance may be effectuated upon an individual.

(4) A contract of group life insurance may be effectuated upon an individual, except as otherwise provided in section 4 of this act.

NEW SECTION. Sec. 6. A new section is added to chapter 48.18 RCW to read as follows:

With respect to employer-owned life insurance policies, this act shall apply only to policies issued and delivered after the effective date of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 48.18 RCW to read as follows:

The commissioner shall adopt rules to implement RCW 48.18.010, 48.18.030, and 48.18.060 and sections 4 and 6 of this act.

NEW SECTION. Sec. 8. The insurance commissioner shall report to the legislature on or before December 31, 2006, on steps taken to implement this act and whether the protections afforded in this act are adequate to protect consumers.

Passed by the Senate April 18, 2005.

Passed by the House April 14, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 338

[Substitute Senate Bill 5266]

FINANCIAL TRANSACTIONS—STATE REGULATION

AN ACT Relating to reserving state authority to regulate the customer transactions of financial service providers under the jurisdiction of the department of financial institutions; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.01 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 consumers, financial services providers, and financial institutions need uniformity and certainty in their financial transactions. It is the intent of the legislature to reserve the authority to regulate customer financial transactions involving consumers, financial services providers, and financial institutions.

NEW SECTION. Sec. 2. A new section is added to chapter 35.21 RCW to read as follows:

A city, town, or governmental entity subject to this title may not regulate the terms, conditions, or disclosures of any lawful financial transaction between a consumer and (1) a business or professional under the jurisdiction of the department of financial institutions, or (2) any financial institution as defined under RCW 30.22.041.

NEW SECTION. Sec. 3. A new section is added to chapter 35A.21 RCW to read as follows:

A code city or governmental entity subject to this title may not regulate the terms, conditions, or disclosures of any lawful financial transaction between a consumer and (1) a business or professional under the jurisdiction of the department of financial institutions, or (2) any financial institution as defined under RCW 30.22.041.

NEW SECTION. Sec. 4. A new section is added to chapter 36.01 RCW to read as follows:

A county or governmental entity subject to this title may not regulate the terms, conditions, or disclosures of any lawful financial transaction between a consumer and (1) a business or professional under the jurisdiction of the department of financial institutions, or (2) any financial institution as defined under RCW 30.22.041.

Passed by the Senate April 16, 2005.

Passed by the House April 5, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 339

[Senate Bill 5274]

REAL ESTATE APPRAISERS

AN ACT Relating to real estate appraisers; amending RCW 18.140.005, 18.140.010, 18.140.020, 18.140.030, 18.140.060, 18.140.070, 18.140.100, 18.140.110, 18.140.120, 18.140.130, 18.140.140, 18.140.150, 18.140.155, 18.140.160, 18.140.170, 18.140.200, 18.140.202, 18.140.220, 18.140.230, 18.140.260, and 43.84.092; reenacting and amending RCW 43.84.092; adding a new section to chapter 18.140 RCW; providing effective dates; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 18.140.005 and 1996 c 182 s 1 are each amended to read as follows:

(1) It is the intent of the legislature that only individuals who meet and maintain minimum standards of competence and conduct established under this chapter for certified ~~((or)), licensed, or registered~~ real estate appraisers may provide real estate appraisal services to the public.

(2) It is the further intent of the legislature to provide for the proper supervision and training of new entrants to the appraiser profession through the implementation of the state-registered appraiser trainee classification.

Sec. 2. RCW 18.140.010 and 2000 c 249 s 1 are each amended to read as follows:

~~((As used in this chapter,))~~ The ((following terms have the meanings indicated)) 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) ((Certified appraisal means an appraisal prepared or signed by a state-certified real estate appraiser. A certified appraisal represents to the public that it meets the appraisal standards defined in this chapter.~~

~~((6))~~ (6) "Client" means any party for whom an appraiser performs a service.

~~((7))~~ (7) "Commission" means the real estate appraiser commission of the state of Washington.

~~((8))~~ (8) "Comparative market analysis" means a brokers price opinion.

~~((9))~~ (9) "Department" means the department of licensing.

~~((10))~~ (10) "Director" means the director of the department of licensing.

~~((11))~~ (11) "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.

~~((12))~~ (12) "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.

~~((13))~~ (13) "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).

~~((14))~~ (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.

~~((15))~~ (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.

~~((16))~~ (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.

~~((17))~~ "Licensed appraisal" means an appraisal prepared or signed by a state-licensed real estate appraiser. A licensed appraisal represents to the public that it meets the appraisal standards defined in this chapter.

~~((18))~~ (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.

~~((19))~~ (17) "Real estate" means an identified parcel or tract of land, including improvements, if any.

~~((20))~~ (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.

~~((21))~~ (19) "Real property" means one or more defined interests, benefits, or rights inherent in the ownership of real estate.

~~((22))~~ (20) "Review" means the act or process of critically studying an appraisal report prepared by another.

~~((23))~~ (21) "Specialized appraisal services" means all appraisal services ~~(which)~~ 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.

~~((24))~~ (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."

~~((25))~~ (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."

~~((26))~~ (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 section 21 of this act 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. 3. RCW 18.140.020 and 1998 c 120 s 1 are each amended to read as follows:

(1) No person other than a state-certified or state-licensed real estate appraiser may receive compensation of any form for a real estate appraisal or an appraisal review, except that a state-registered appraiser trainee may receive compensation from one or more supervisory appraisers or the supervisory appraiser's employer for appraisal assignments. ~~((However,))~~

(2) Compensation may be provided for brokers price opinions prepared by a real estate licensee, licensed under chapter 18.85 RCW.

~~((2))~~ (3) No person, other than a state-certified ~~((or))~~, state-licensed real estate appraiser, or a state-registered appraiser trainee may assume or use that title or any title, designation, or abbreviation likely to create the impression of certification ~~((or))~~, licensure, or registration as a real estate appraiser by this state.

~~((3))~~ (4) A person who is not certified ~~((or))~~, licensed, or registered under this chapter shall not prepare any appraisal of real estate located in this state, except as provided under subsection ~~((4))~~ (2) of this section.

~~((4))~~ (5) This section does not preclude a staff employee of a governmental entity from performing an appraisal or an appraisal assignment within the scope of his or her employment insofar as the performance of official duties for the governmental entity are concerned. Such an activity for the benefit of the governmental entity is exempt from the requirements of this chapter.

~~((5))~~ (6) This chapter does not preclude an individual person licensed by the state of Washington as a real estate broker or as a real estate salesperson from issuing a brokers price opinion. However, if the brokers price opinion is written, or given as evidence in any legal proceeding, and is issued to a person who is not a prospective seller, buyer, lessor, or lessee as the only intended user, then the brokers price opinion shall contain a statement, in an obvious location within the written document or specifically and affirmatively in spoken testimony, that substantially states: "This brokers price opinion is not an appraisal as defined in chapter 18.140 RCW and has been prepared by a real estate licensee, licensed under chapter 18.85 RCW, who (is/is not) also state-certified or state-licensed as a real estate appraiser under chapter 18.140 RCW." However, the brokers price opinion issued under this subsection may not be used as an appraisal in conjunction with a federally related transaction.

~~((6))~~ (7) This section does not apply to an appraisal or an appraisal review performed for a financial institution or mortgage broker by an employee or third party, when such appraisal or appraisal review is not required to be performed by a state-certified or state-licensed real estate appraiser by the appropriate federal financial institutions regulatory agency.

~~((7))~~ (8) This section does not apply to an attorney licensed to practice law in this state or to a certified public accountant, as defined in RCW 18.04.025, who evaluates real property in the normal scope of his or her professional services.

Sec. 4. RCW 18.140.030 and 2002 c 86 s 238 are each amended to read as follows:

The director shall have the following powers and duties:

(1) To adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter and chapter 18.235 RCW, with the advice and approval of the commission;

(2) To receive and approve or deny applications for certification or licensure as a state-certified or state-licensed real estate appraiser and for registration as a state-registered appraiser trainee under this chapter; to establish appropriate administrative procedures for the processing of such applications; to issue certificates ~~((or))~~, licenses, or registrations to qualified applicants pursuant to the provisions of this chapter; and to maintain a ~~((register))~~ roster of the names and addresses of individuals who are currently certified ~~((or))~~, licensed, or registered under this chapter;

(3) To provide administrative assistance to the members of and to keep records for the real estate appraiser commission;

(4) To solicit bids and enter into contracts with educational testing services or organizations for the preparation of questions and answers for certification or licensure examinations;

(5) To administer or contract for administration of certification or licensure examinations at locations and times as may be required to carry out the responsibilities under this chapter;

(6) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(7) To consider recommendations by the real estate appraiser commission relating to the experience, education, and examination requirements for each classification of state-certified appraiser and for licensure;

(8) To consider recommendations by the real estate appraiser commission relating to the educational requirements for the state-registered appraiser trainee classification;

(9) To consider recommendations by the real estate appraiser commission relating to the maximum number of state-registered appraiser trainees that each supervisory appraiser will be permitted to supervise;

(10) To consider recommendations by the real estate appraiser commission relating to continuing education requirements as a prerequisite to renewal of certification or licensure;

~~((9))~~ (11) To consider recommendations by the real estate appraiser commission relating to standards of professional appraisal conduct or practice in the enforcement of this chapter;

~~((40))~~ (12) To employ such professional, clerical, and technical assistance as may be necessary to properly administer the work of the director;

~~((44))~~ (13) To establish forms necessary to administer this chapter;

~~((42))~~ (14) To establish an expert review appraiser roster comprised of state-certified or licensed real estate appraisers whose purpose is to assist the director by applying their individual expertise by reviewing real estate appraisals for compliance with this chapter. Qualifications to act as an expert review appraiser shall be established by the director with the advice of the commission. An application to serve as an expert review appraiser shall be submitted to the real estate appraiser program, and the roster of accepted expert review appraisers shall be maintained by the department. An expert review appraiser may be added to or deleted from that roster by the director. The expert review appraiser shall be reimbursed for expenses in the same manner as the department reimburses the commission; and

~~((43))~~ (15) To do all other things necessary to carry out the provisions of this chapter and minimally meet the requirements of federal guidelines regarding state certification or licensure of appraisers and registration of state-registered appraiser trainees that the director determines are appropriate for state-certified and state-licensed appraisers and state-registered appraiser trainees in this state.

Sec. 5. RCW 18.140.060 and 1993 c 30 s 6 are each amended to read as follows:

(1) Applications for examinations, original certification ~~((~~¶~~))~~, licensure, or registration, and renewal certification ~~((~~¶~~))~~, licensure, or registration shall be made in writing to the department on forms approved by the director. Applications for original and renewal certification ~~((~~¶~~))~~, licensure, or registration shall include a statement confirming that the applicant shall comply with applicable rules and regulations and that the applicant understands the penalties for misconduct.

(2) The appropriate fees shall accompany all applications for examination, reexamination, original certification (~~((or))~~), licensure, or registration, and renewal certification (~~((or))~~), licensure, or registration.

Sec. 6. RCW 18.140.070 and 1993 c 30 s 7 are each amended to read as follows:

There shall be two categories of state-certified real estate appraisers, one category of state-licensed real estate appraisers, and ~~((two categories of state-certified real estate appraisers))~~ one category of state-registered appraiser trainee as follows:

- (1) The ~~((state-licensed))~~ state-certified general real estate appraiser;
- (2) The state-certified residential real estate appraiser;
- (3) The ~~((state-certified general))~~ state-licensed real estate appraiser; and
- (4) The state-registered appraiser trainee.

Sec. 7. RCW 18.140.100 and 1993 c 30 s 10 are each amended to read as follows:

An original ~~((license or))~~ certificate or license shall be issued to persons who have satisfactorily passed the written examination as endorsed by the Appraiser Qualifications Board of the Appraisal Foundation and as adopted by the director.

Sec. 8. RCW 18.140.110 and 1993 c 30 s 11 are each amended to read as follows:

Every applicant for ~~((licensing or))~~ certification, licensing, or registration who is not a resident of this state shall submit, with the application for ~~((licensing or))~~ certification, licensing, or registration an irrevocable consent that service of process upon him or her may be made by service on the director if, in an action against the applicant in a court of this state arising out of the applicant's activities as a state-certified or state-licensed real estate appraiser or ~~((state-certified real estate))~~ state-registered appraiser trainee, the plaintiff cannot, in the exercise of due diligence, obtain personal service upon the applicant.

Sec. 9. RCW 18.140.120 and 1993 c 30 s 12 are each amended to read as follows:

An applicant for ~~((licensure or))~~ certification or licensure who is currently ~~((licensed or))~~ certified or licensed and in good standing under the laws of another state may obtain a ~~((license or))~~ certificate or license as a Washington ~~((state-licensed or))~~ 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 ~~((licensure or))~~ 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 ~~((licenses and/or))~~ certificates and/or licenses.

Sec. 10. RCW 18.140.130 and 1996 c 182 s 6 are each amended to read as follows:

- (1) Each original and renewal ~~((license or))~~ certificate, license, or registration issued under this chapter shall expire on the applicant's second birthday following issuance of the ~~((license or))~~ certificate, license, or registration.

(2) To be renewed as a (~~state-licensed or~~) state-certified or state-licensed real estate appraiser or state-registered appraiser trainee, the holder of a valid (~~license or~~) certificate, license, or registration shall apply and pay the prescribed fee to the director no earlier than one hundred twenty days prior to the expiration date of the (~~license or~~) certificate, license, or registration and shall demonstrate satisfaction of any continuing education requirements.

(3) If a person fails to renew a (~~license or~~) certificate, license, or registration prior to its expiration and no more than one year has passed since the person last held a valid (~~license or~~) certificate, license, or registration, the person may obtain a renewal (~~license or~~) certificate, license, or registration by satisfying all of the requirements for renewal and paying late renewal fees.

The director shall cancel the (~~license or~~) certificate, license, or registration of any person whose renewal fee is not received within one year from the date of expiration. A person may obtain a new (~~license or~~) certificate, license, or registration by satisfying the procedures and qualifications for initial (~~license or~~) certification, licensure, or registration, including the successful completion of any applicable examinations.

Sec. 11. RCW 18.140.140 and 1996 c 182 s 7 are each amended to read as follows:

(1) A (~~license or~~) certificate, license, or registration issued under this chapter shall bear the signature or facsimile signature of the director and a (~~license or~~) certificate, license, or registration number assigned by the director.

(2) Each (~~state-licensed or~~) state-certified or state-licensed real estate appraiser or state-registered appraiser trainee shall place his or her (~~license or~~) certificate, license, or registration number adjacent to or immediately below the title (~~"state-licensed real estate appraiser,"~~) "state-certified (~~residential~~) general real estate appraiser," (~~or~~) "state-certified (~~general~~) residential real estate appraiser," "state-licensed real estate appraiser," or "state-registered appraiser trainee" when used in an appraisal report or in a contract or other instrument used by the (~~licensee or~~) certificate holder, licensee, or registered appraiser trainee in conducting real property appraisal activities, except that the (~~license or~~) certificate, license, or registration number shall not be required to appear when the title is not accompanied by a signature as is typical on such promotional and stationery items as brochures, business cards, forms, or letterhead.

(3) Each state-registered appraiser trainee shall place his or her registration number adjacent to or immediately below the title "state-registered appraiser trainee" when used in an appraisal report and the supervisory appraiser shall place his or her certificate number adjacent to or immediately below the title "state-certified general real estate appraiser" or "state-certified residential real estate appraiser."

Sec. 12. RCW 18.140.150 and 1996 c 182 s 8 are each amended to read as follows:

(1) The term (~~"state-licensed" or~~) "state-certified real estate appraiser," "state-licensed real estate appraiser," or "state-registered appraiser trainee" may only be used to refer to individuals who hold the (~~license or~~) certificate, license, or registration and may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation, group,

or limited liability company, or in such manner that it might be interpreted as referring to a firm, partnership, corporation, group, limited liability company, or anyone other than an individual holder of the (~~license or~~) certificate, license, or registration.

(2) No (~~license or~~) certificate, license, or registration may be issued under this chapter to a corporation, partnership, firm, limited liability company, or group. This shall not be construed to prevent a (~~state-licensed or~~) state-certified or state-licensed appraiser from signing an appraisal report on behalf of a corporation, partnership, firm, group practice, or limited liability company, nor may it be construed to prevent a state-registered appraiser trainee from signing an appraisal report under the supervision of a state-certified real estate appraiser on behalf of a corporation, partnership, firm, group practice, or limited liability company.

Sec. 13. RCW 18.140.155 and 2001 c 78 s 1 are each amended to read as follows:

(1) A real estate appraiser from another state who is (~~licensed or~~) certified or licensed by another state may apply for registration to receive temporary (~~licensing or~~) certification or licensing in Washington by paying a fee and filing a notarized application with the department on a form provided by the department.

(2) The director is authorized to adopt by rule the term or duration of the (~~licensing and~~) certification and licensing privileges granted under the provisions of this section. (~~Licensing or~~) Certification or licensing shall not be renewed. However, an applicant may receive an extension of a temporary practice permit to complete an assignment, provided that a written request is received by the department prior to the expiration date, stating the reason for the extension.

(3) A temporary practice permit issued under this section allows an appraiser to perform independent appraisal services required by a contract for appraisal services.

(4) Persons granted temporary (~~licensing or~~) certification or licensing privileges under this section shall not advertise or otherwise hold themselves out as being (~~licensed or~~) certified or licensed by the state of Washington.

(5) Persons granted temporary (~~licensure or~~) certification or licensure are subject to all provisions under this chapter.

Sec. 14. RCW 18.140.160 and 2002 c 86 s 239 are each amended to read as follows:

In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action for the following conduct, acts, or conditions:

(1) Failing to meet the minimum qualifications for state (~~licensure or~~) certification, licensure, or registration established by or pursuant to this chapter;

(2) Paying money other than the fees provided for by this chapter to any employee of the director or the commission to procure state (~~licensure or~~) certification, licensure, or registration under this chapter;

(3) Continuing to act as a (~~state-licensed or~~) state-certified real estate appraiser, state-licensed real estate appraiser, or state-registered appraiser trainee

when his or her (~~(license or)~~) certificate, license, or registration is on an expired status;

(4) Violating any provision of this chapter or any lawful rule made by the director pursuant thereto;

(5) Issuing an appraisal report on any real property in which the appraiser has an interest unless his or her interest is clearly stated in the appraisal report; and

(6) Being affiliated as an (~~(employee or independent contractor with a state-licensed or state-certified real estate appraiser when the appraiser's license or certificate has been revoked due to disciplinary action)~~) employer, independent contractor, or supervisory appraiser of a state-certified real estate appraiser, state-licensed real estate appraiser, or state-registered appraiser trainee whose certification, license, or registration is currently in a suspended or revoked status.

Sec. 15. RCW 18.140.170 and 2002 c 86 s 240 are each amended to read as follows:

The director may investigate the actions of a (~~(state-licensed or)~~) state-certified or state-licensed real estate appraiser or a state-registered appraiser trainee or an applicant for (~~(license or)~~) certification, licensure, or registration or (~~(relicense or)~~) recertification, relicensure, or reregistration. Upon receipt of information indicating that a (~~(state-licensed or)~~) state-certified or state-licensed real estate appraiser or state-registered appraiser trainee under this chapter may have violated this chapter, the director may cause one or more of the staff investigators to make an investigation of the facts to determine whether or not there is admissible evidence of any such violation. If technical assistance is required, a staff investigator may consult with one or more of the members of the commission.

Sec. 16. RCW 18.140.200 and 1996 c 293 s 19 are each amended to read as follows:

The director shall suspend the certificate (~~(or)~~), license, or registration of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate (~~(or)~~), license, or registration shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification (~~(or)~~), licensure, or registration during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

Sec. 17. RCW 18.140.202 and 1997 c 58 s 832 are each amended to read as follows:

The director shall immediately suspend any (~~(license or)~~) certificate, license, or registration 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 reinstatement during the suspension, reissuance of the (~~(license or)~~) certificate, license, or registration 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.

Sec. 18. RCW 18.140.220 and 1996 c 182 s 12 are each amended to read as follows:

Any person acting as a state-certified or state-licensed real estate appraiser or state-registered appraiser trainee without a certificate (~~(or)~~) license, or registration that is currently valid is guilty of a misdemeanor.

Sec. 19. RCW 18.140.230 and 2000 c 249 s 3 are each amended to read as follows:

There is established the real estate appraiser commission of the state of Washington, consisting of seven members who shall act to give advice to the director.

(1) The seven commission members shall be appointed by the governor in the following manner: For a term of six years each, with the exception of the first appointees who shall be the incumbent members of the predecessor real estate appraiser advisory committee to serve for the duration of their current terms, with all other subsequent appointees to be appointed for a six-year term.

(2) At least two of the commission members shall be selected from the area of the state east of the Cascade mountain range and at least two of the commission members shall be selected from the area of the state west of the Cascade mountain range. At least two members of the commission shall be certified general real estate appraisers, at least two members of the commission shall be certified residential real estate appraisers, and at least one member of the commission (~~(shall)~~) may be a licensed real estate appraiser, all pursuant to this chapter. No certified or licensed appraiser commission member shall be appointed who has not been certified and/or licensed pursuant to this chapter for less than ten years, except that this experience duration shall be not less than five years only for any commission member taking office before January 1, 2003. One member shall be an employee of a financial institution as defined in this chapter whose duties are concerned with real estate appraisal management and policy. One member shall be an individual engaged in mass appraisal whose duties are concerned with ad valorem appraisal management and policy and who is licensed or certified under this chapter. One member may be a member of the general public.

(3) The members of the commission annually shall elect their chairperson and vice-chairperson to serve for a term of one calendar year. A majority of the members of said commission shall at all times constitute a quorum.

(4) Any vacancy on the commission shall be filled by appointment by the governor for the unexpired term.

Sec. 20. RCW 18.140.260 and 2002 c 86 s 241 are each amended to read as follows:

The real estate appraiser commission account is created in the state treasury. All fees received by the department for certificates, licenses, registrations,

renewals, examinations, and audits must be forwarded to the state treasurer who must credit the money to the account. All fines and civil penalties ordered pursuant to RCW 18.140.020, 18.140.160, or 18.235.110 against holders of ~~((Licenses,))~~ certificates, licenses, or registrations issued under the provisions of this chapter must be paid to the account. All expenses incurred in carrying out the certification, licensing, and registration activities of the department under this chapter must be paid from the account as authorized by legislative appropriation. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium. ~~((All earnings of investments of balances in the account shall be credited to the general fund.))~~ Any fund balance remaining in the general fund attributable to the real estate appraiser commission account as of July 1, 2003, must be transferred to the real estate appraiser commission account.

NEW SECTION. Sec. 21. A new section is added to chapter 18.140 RCW to read as follows:

(1) The director may issue an original registration as a state-registered trainee real estate appraiser, to be valid for a term not exceeding two years together with a maximum of two renewals, which must be completed within seven years from the original date of registration, unless either period is interrupted by service in the armed forces of the United States of America.

(2) A trainee real estate appraiser may not provide appraisal services other than through and under the direct supervision of a state-certified general real estate appraiser or a state-certified residential real estate appraiser.

Sec. 22. RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, 2003 c 150 s 2, and 2003 c 48 s 2 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 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 common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the 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 Puyallup tribal settlement account, the real estate appraiser commission account, the regional transportation investment district account, the resource management cost account, the site closure 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 supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law

enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 23. RCW 43.84.092 and 2004 c 242 s 60 are each 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 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 common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the 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 Puyallup tribal settlement account, the real estate appraiser commission account, the regional transportation investment district account, the resource management cost account, the site closure 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 supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the

transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(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. 24. Section 22 of this act expires July 1, 2006.

NEW SECTION. Sec. 25. Section 23 of this act takes effect July 1, 2006.

NEW SECTION. Sec. 26. (1) Sections 1, 2, 4, 7, 9, 13, 20, and 22 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2005.

(2) Sections 3, 5, 6, 8, 10 through 12, 14 through 18, and 21 of this act take effect April 1, 2006.

Passed by the Senate April 19, 2005.

Passed by the House April 5, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 340

[Senate Bill 5321]

MOTOR VEHICLE OWNERS—ADDRESS DISCLOSURE

AN ACT Relating to disclosure of addresses of vehicle owners; and amending RCW 46.12.370 and 46.12.380.

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

Sec. 1. RCW 46.12.370 and 2004 c 230 s 1 are each amended to read as follows:

In addition to any other authority which it may have, the department of licensing may furnish lists of registered and legal owners of motor vehicles only for the purposes specified in this section to:

(1) The manufacturers of motor vehicles, or their authorized agents, to be used to enable those manufacturers to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. sec. 1382-1418), including amendments or additions thereto, respecting safety-related defects in motor vehicles;

(2) 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 motor vehicle or traffic laws by, or programs related to traffic safety of, that government agency. Only such parts of the list as are required for completion of the work required of the agent or contractor shall be provided to such agent or contractor;

(3) A commercial parking company requiring the names and addresses of registered owners to notify them of outstanding parking violations. Subject to the disclosure agreement provisions of RCW 46.12.380 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;

(4) An authorized agent or contractor of the department, to be used only in connection with providing motor vehicle excise tax, licensing, title, and registration information to motor vehicle dealers;

(5) Any business regularly making loans to other persons to finance the purchase of motor vehicles, to be used to assist the person requesting the list to determine ownership of specific vehicles for the purpose of determining whether or not to provide such financing; or

(6) 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.

Where both a mailing address and residence address are recorded on the vehicle 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.

If a list of registered and legal owners of motor vehicles is used for any purpose other than that authorized in this section, the manufacturer, governmental agency, commercial parking company, authorized agent, contractor, financial institution, toll facility operator, or their authorized agents or contractors responsible for the unauthorized disclosure or use will be denied further access to such information by the department of licensing.

Sec. 2. RCW 46.12.380 and 1995 c 254 s 10 are each amended to read as follows:

(1) Notwithstanding the provisions of chapter 42.17 RCW, the name or address of an individual vehicle 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 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.

~~((3))~~ (4) 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 owner, to whom the information applies, that the request has been granted. The notice also shall contain the name and address of the requesting party.

~~((4))~~ (5) Any person who is furnished vehicle 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.

~~((5))~~ (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 owners.

~~((6))~~ (7) This section shall not apply to title history information under RCW 19.118.170.

Passed by the Senate April 19, 2005.

Passed by the House April 8, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 341

[Substitute Senate Bill 5414]

AVIATION FEES AND TAXES

AN ACT Relating to aviation fees and taxes; amending RCW 47.68.230, 82.42.020, and 82.42.030; reenacting and amending RCW 47.68.240; repealing RCW 47.68.233, 47.68.234, and 47.68.236; prescribing penalties; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 47.68.230 and 1993 c 208 s 5 are each amended to read as follows:

It shall be unlawful for any person to operate or cause or authorize to be operated any civil aircraft within this state unless such aircraft has an appropriate effective certificate, permit, or license issued by the United States, if such certificate, permit, or license is required by the United States, and a current registration certificate issued by the secretary of transportation, if registration of the aircraft with the department of transportation is required by this chapter. It shall be unlawful for any person to engage in aeronautics as an airman or airwoman in the state unless the person has an appropriate effective airman or airwoman certificate, permit, rating, or license issued by the United States authorizing him or her to engage in the particular class of aeronautics in which he or she is engaged, if such certificate, permit, rating, or license is required by the United States ~~((and a current airman's or airwoman's registration certificate issued by the department of transportation as required by RCW 47.68.233 or 47.68.234)).~~

Where a certificate, permit, rating, or license is required for an airman or airwoman by the United States ~~((or by RCW 47.68.233 or 47.68.234)),~~ it shall be kept in his or her personal possession when he or she is operating within the state. Where a certificate, permit, or license is required by the United States or by this chapter for an aircraft, it shall be carried in the aircraft at all times while the aircraft is operating in the state and shall be conspicuously posted in the aircraft where it may be readily seen by passengers or inspectors. Such certificates shall be presented for inspection upon the demand of any peace officer, or any other officer of the state or of a municipality or member, official, or employee of the department of transportation authorized pursuant to this chapter to enforce the aeronautics laws, or any official, manager, or person in charge of any airport, or upon the reasonable request of any person.

Sec. 2. RCW 47.68.240 and 2003 c 375 s 3 and 2003 c 53 s 265 are each reenacted and 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 (~~subsection[s] (1) [and (2)]~~) 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.

(4) (~~In addition to the provisions in subsection[s] (1) [and (2)] of this section, failure to register as a pilot, airman, or airwoman, as required by this chapter, is subject to a civil penalty of four times the fees that are due. If the pilot registration is sixty days past due, the pilot, airman, or airwoman is subject to the [a] civil penalty of four times the fees that are due.~~

(5)) The revenue from penalties prescribed in subsection (3) of this section must be deposited into the aeronautics account under RCW 82.42.090. (~~The revenue from penalties prescribed in subsection (4) of this section must be deposited into the aircraft search and rescue, safety, and education account under RCW 47.68.236.~~)

Sec. 3. RCW 82.42.020 and 2003 c 375 s 5 are each amended to read as follows:

There is hereby levied, and there shall be collected by every distributor of aircraft fuel, an excise tax at the rate of (~~ten~~) eleven cents on each gallon of aircraft fuel sold, delivered, or used in this state: PROVIDED HOWEVER, That such aircraft fuel excise tax shall not apply to fuel for aircraft that both operate from a private, non-state-funded airfield during at least ninety-five percent of the aircraft's normal use and are used principally for the application of pesticides, herbicides, or other agricultural chemicals and shall not apply to fuel for emergency medical air transport entities: PROVIDED FURTHER, That there shall be collected from every consumer or user of aircraft fuel either the use tax imposed by RCW 82.12.020, as amended, or the retail sales tax imposed by RCW 82.08.020, as amended, collection procedure to be as prescribed by law and/or rule or regulation of the department of revenue. The taxes imposed by this chapter shall be collected and paid to the state but once in respect to any aircraft fuel.

The tax required by this chapter, to be collected by the seller, is held in trust by the seller until paid to the department, and a seller who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a

felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax.

Sec. 4. RCW 82.42.030 and 1989 c 193 s 4 are each amended to read as follows:

(1) The provision of RCW 82.42.020 imposing the payment of an excise tax on each gallon of aircraft fuel sold, delivered or used in this state shall not apply to aircraft fuel sold for export, nor to aircraft fuel used for the following purposes: ~~((+))~~ (a) The operation of aircraft when such use is by any air carrier or supplemental air carrier operating under a certificate of public convenience and necessity under the provisions of the Federal Aviation Act of 1958, Public Law 85-726, as amended; ~~((2))~~ (b) the operation of aircraft for testing or experimental purposes; ~~((3))~~ (c) the operation of aircraft when such operation is for the training of crews in Washington state for purchasers of aircraft who are certified air carriers; and ~~((4))~~ (d) the operation of aircraft in the operations of a local service commuter: PROVIDED, That the director's determination as to a particular activity for which aircraft fuel is used as being an exemption under this section, or otherwise, shall be final.

(2) To claim an exemption on account of sales by a licensed distributor of aircraft fuel for export, the purchaser shall obtain from the selling distributor, and such selling distributor must furnish the purchaser, an invoice giving such details of the sale for export as the director may require, copies of which shall be furnished the department and the entity of the state or foreign jurisdiction of destination which is charged by the laws of that state or foreign jurisdiction with the control or monitoring or both, of the sales or movement of aircraft fuel in that state or foreign jurisdiction.

(3) For the purposes of this section, "air carrier" means an airline, air cargo carrier, air taxi, air commuter, or air charter operator, that provides routine air service to the general public for compensation or hire, and operates at least fifteen round-trips per week between two or more points and publishes flight schedules which specify the times, days of the week, and points between which it operates. Where it is doubtful that an operation is for "compensation or hire," the test applied is whether the air service is merely incidental to the person's other business or is, in itself, a major enterprise for profit.

NEW SECTION. Sec. 5. The following acts or parts of acts are each repealed:

(1) RCW 47.68.233 (Registration of pilots—Certificates—Fees—Exemptions—Use of fees) and 2003 c 375 s 1, 2003 c 53 s 263, 2000 c 176 s 1, 1987 c 220 s 2, 1984 c 7 s 355, 1983 c 3 s 143, & 1967 c 207 s 2;

(2) RCW 47.68.234 (Registration of airman and airwoman) and 2003 c 375 s 2, 2003 c 53 s 264, & 1993 c 208 s 3; and

(3) RCW 47.68.236 (Aircraft search and rescue, safety, and education account) and 1995 c 170 s 4, 1991 sp.s. c 13 s 38, 1985 c 57 s 63, 1983 c 3 s 144, & 1967 c 207 s 3.

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 July 1, 2005.

Passed by the Senate April 24, 2005.

Passed by the House April 24, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 342

[Engrossed Senate Bill 5418]

CREDIT REPORTING AGENCIES—SECURITY FREEZE

AN ACT Relating to placing a security freeze on a credit report; and adding new sections to chapter 19.182 RCW.

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:

(1) A victim of identity theft who has submitted a valid police report to a consumer reporting agency may elect to place a security freeze on his or her report by making a request in writing by certified mail to a consumer reporting agency. "Security freeze" means a notice placed in a consumer's credit report, at the request of the consumer and subject to certain exceptions, that prohibits the consumer reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. If a security freeze is in place, information from a consumer's credit report may not be released to a third party without prior express authorization from the consumer. This subsection does not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

(2) For purposes of this section and sections 2 through 5 of this act, a "victim of identity theft" means:

(a) A victim of identity theft as defined in RCW 9.35.020; or

(b) A person who has been notified by an agency, person, or business that owns or licenses computerized data of a breach in a computerized data system which has resulted in the acquisition of that person's unencrypted personal information by an unauthorized person or entity.

(3) A consumer reporting agency shall place a security freeze on a consumer's credit report no later than five business days after receiving a written request from the consumer.

(4) The consumer reporting agency shall send a written confirmation of the security freeze to the consumer within ten business days and shall provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of his or her credit report for a specific party or period of time.

(5) If the consumer wishes to allow his or her credit report to be accessed for a specific party or period of time while a freeze is in place, he or she shall contact the consumer reporting agency, request that the freeze be temporarily lifted, and provide the following:

(a) Proper identification, which means that information generally deemed sufficient to identify a person. Only if the consumer is unable to sufficiently identify himself or herself, may a consumer reporting agency require additional information concerning the consumer's employment and personal or family history in order to verify his or her identity;

(b) The unique personal identification number or password provided by the credit reporting agency under subsection (4) of this section; and

(c) The proper information regarding the third party who is to receive the credit report or the time period for which the report is available to users of the credit report.

(6) A consumer reporting agency that receives a request from a consumer to temporarily lift a freeze on a credit report under subsection (5) of this section, shall comply with the request no later than three business days after receiving the request.

(7) A consumer reporting agency may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report under subsection (5) of this section in an expedited manner.

(8) A consumer reporting agency shall remove or temporarily lift a freeze placed on a consumer's credit report only in the following cases:

(a) Upon consumer request, under subsection (5) or (11) of this section; or

(b) When the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. When a consumer reporting agency intends to remove a freeze upon a consumer's credit report under this subsection, the consumer reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's credit report.

(9) When a third party requests access to a consumer credit report on which a security freeze is in effect, and this request is in connection with an application for credit or any other use, and the consumer does not allow his or her credit report to be accessed for that specific party or period of time, the third party may treat the application as incomplete.

(10) When a consumer requests a security freeze, the consumer reporting agency shall disclose the process of placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while the freeze is in place.

(11) A security freeze remains in place until the consumer requests that the security freeze be removed. A consumer reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer, who provides both of the following:

(a) Proper identification, as defined in subsection (5)(a) of this section; and

(b) The unique personal identification number or password provided by the consumer reporting agency under subsection (4) of this section.

(12) This section does not apply to the use of a consumer credit report by any of the following:

(a) A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a financial obligation owing by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment

an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this subsection, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

(b) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subsection (5) of this section for purposes of facilitating the extension of credit or other permissible use;

(c) Any federal, state, or local entity, including a law enforcement agency, court, or their agents or assigns;

(d) A private collection agency acting under a court order, warrant, or subpoena;

(e) A child support agency acting under Title IV-D of the social security act (42 U.S.C. et seq.);

(f) The department of social and health services acting to fulfill any of its statutory responsibilities;

(g) The internal revenue service acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities;

(h) The use of credit information for the purposes of prescreening as provided for by the federal fair credit reporting act;

(i) Any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed; and

(j) Any person or entity for the purpose of providing a consumer with a copy of his or her credit report upon the consumer's request.

NEW SECTION, Sec. 2. A new section is added to chapter 19.182 RCW to read as follows:

If a security freeze is in place, a consumer reporting agency may not change any of the following official information in a consumer credit report without sending a written confirmation of the change to the consumer within thirty days of the change being posted to the consumer's file: Name, date of birth, social security number, and address. Written confirmation is not required for technical modifications of a consumer's official information, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.

NEW SECTION, Sec. 3. A new section is added to chapter 19.182 RCW to read as follows:

A consumer reporting agency is not required to place a security freeze in a consumer credit report under section 1 of this act if it acts only as a reseller of credit information by assembling and merging information contained in the data base of another consumer reporting agency or multiple consumer reporting agencies, and does not maintain a permanent data base of credit information from which new consumer credit reports are produced. However, a consumer reporting agency must honor any security freeze placed on a consumer credit report by another consumer reporting agency.

NEW SECTION, Sec. 4. A new section is added to chapter 19.182 RCW to read as follows:

The following entities are not required to place a security freeze in a consumer credit report under section 1 of this act:

(1) A check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments; and

(2) A deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution.

NEW SECTION. Sec. 5. A new section is added to chapter 19.182 RCW to read as follows:

A consumer reporting agency may furnish to a governmental agency a consumer's name, address, former address, places of employment, or former places of employment.

Passed by the Senate April 19, 2005.

Passed by the House April 11, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 343

[Senate Bill 5518]

LICENSING—SUBAGENTS' FEES

AN ACT Relating to subagents' fees; and amending RCW 46.01.140.

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

Sec. 1. RCW 46.01.140 and 2003 c 370 s 3 are each amended to read as follows:

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

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

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

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

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

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

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

(c) The auditor shall submit all proposals to the director, and shall recommend the appointment of one or more subagents who have applied through the open competitive process. The auditor shall include in his or her recommendation to the director, not only the name of the successor who is a relative or employee, if applicable and if otherwise qualified, but also the name of one other applicant who is qualified and was chosen through the open competitive process. The director has final appointment authority.

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

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

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

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

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

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

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

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

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

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

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

(4)(a) At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or

the right to operate any vehicle or vessel upon the public highways or waters of this state, excluding applicants already paying such fee under RCW 46.16.070 or 46.16.085, the applicant shall pay to the director, county auditor, or other agent a fee of three dollars for each application in addition to any other fees required by law.

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

(c) Applicants for certificates of ownership, including applicants paying fees under RCW 46.16.070 or 46.16.085, shall pay to the director, county auditor, or other agent a fee of four dollars in addition to any other fees required by law.

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

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

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

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

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

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

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

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

Passed by the Senate March 12, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 344

[Senate Bill 5582]

SEXUALLY VIOLENT PREDATORS—CHANGE IN DEMOGRAPHIC FACTORS

AN ACT Relating to the use of demographic factors in proceedings under chapter 71.09 RCW; amending RCW 71.09.090; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that the decisions in *In re Young*, 120 Wn. App. 753, *review denied*, __ Wn.2d __ (2004) and *In re Ward*, Wn. App. __ (2005) illustrate an unintended consequence of language in chapter 71.09 RCW.

The *Young* and *Ward* decisions are contrary to the legislature's intent set forth in RCW 71.09.010 that civil commitment pursuant to chapter 71.09 RCW address the "very long-term" needs of the sexually violent predator population for treatment and the equally long-term needs of the community for protection from these offenders. The legislature finds that the mental abnormalities and personality disorders that make a person subject to commitment under chapter 71.09 RCW are severe and chronic and do not remit due solely to advancing age or changes in other demographic factors.

The legislature finds, although severe medical conditions like stroke, paralysis, and some types of dementia can leave a person unable to commit further sexually violent acts, that a mere advance in age or a change in gender or some other demographic factor after the time of commitment does not merit a new trial proceeding under RCW 71.09.090. To the contrary, the legislature finds that a new trial ordered under the circumstances set forth in *Young* and *Ward* subverts the statutory focus on treatment and reduces community safety by removing all incentive for successful treatment participation in favor of passive aging and distracting committed persons from fully engaging in sex offender treatment.

The *Young* and *Ward* decisions are contrary to the legislature's intent that the risk posed by persons committed under chapter 71.09 RCW will generally require prolonged treatment in a secure facility followed by intensive community supervision in the cases where positive treatment gains are sufficient for community safety. The legislature has, under the guidance of the federal court, provided avenues through which committed persons who successfully progress in treatment will be supported by the state in a conditional release to a less restrictive alternative that is in the best interest of the committed person and provides adequate safeguards to the community and is the appropriate next step in the person's treatment.

The legislature also finds that, in some cases, a committed person may appropriately challenge whether he or she continues to meet the criteria for commitment. Because of this, the legislature enacted RCW 71.09.070 and 71.09.090, requiring a regular review of a committed person's status and permitting the person the opportunity to present evidence of a relevant change in

condition from the time of the last commitment trial proceeding. These provisions are intended only to provide a method of revisiting the indefinite commitment due to a relevant change in the person's condition, not an alternate method of collaterally attacking a person's indefinite commitment for reasons unrelated to a change in condition. Where necessary, other existing statutes and court rules provide ample opportunity to resolve any concerns about prior commitment trials. Therefore, the legislature intends to clarify the "so changed" standard.

Sec. 2. RCW 71.09.090 and 2001 c 286 s 9 are each amended to read as follows:

(1) If the secretary determines that ~~((either: (a)))~~ the person's condition has so changed that either: (a) The person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community, the secretary shall authorize the person to petition the court for conditional release to a less restrictive alternative or unconditional discharge. The petition shall be filed with the court and served upon the prosecuting agency responsible for the initial commitment. The court, upon receipt of the petition for conditional release to a less restrictive alternative or unconditional discharge, shall within forty-five days order a hearing.

(2)(a) Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for conditional release to a less restrictive alternative or unconditional discharge without the secretary's approval. The secretary shall provide the committed person with an annual written notice of the person's right to petition the court for conditional release to a less restrictive alternative or unconditional discharge over the secretary's objection. The notice shall contain a waiver of rights. The secretary shall file the notice and waiver form and the annual report with the court. If the person does not affirmatively waive the right to petition, the court shall set a show cause hearing to determine whether probable cause exists to warrant a hearing on whether~~((:--(±)))~~ the person's condition has so changed that: (i) He or she no longer meets the definition of a sexually violent predator; or (ii) conditional release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community.

(b) The committed person shall have a right to have an attorney represent him or her at the show cause hearing, which may be conducted solely on the basis of affidavits or declarations, but the person is not entitled to be present at the show cause hearing. At the show cause hearing, the prosecuting attorney or attorney general shall present prima facie evidence establishing that the committed person continues to meet the definition of a sexually violent predator and that a less restrictive alternative is not in the best interest of the person and conditions cannot be imposed that adequately protect the community. In making this showing, the state may rely exclusively upon the annual report prepared pursuant to RCW 71.09.070. The committed person may present responsive affidavits or declarations to which the state may reply.

(c) If the court at the show cause hearing determines that either: (i) The state has failed to present prima facie evidence that the committed person continues to meet the definition of a sexually violent predator and that no proposed less restrictive alternative is in the best interest of the person and

conditions cannot be imposed that would adequately protect the community; or (ii) probable cause exists to believe that the person's condition has so changed that: (A) The person no longer meets the definition of a sexually violent predator; or (B) release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community, then the court shall set a hearing on either or both issues.

(d) If the court has not previously considered the issue of release to a less restrictive alternative, either through a trial on the merits or through the procedures set forth in RCW 71.09.094(1), the court shall consider whether release to a less restrictive alternative would be in the best interests of the person and conditions can be imposed that would adequately protect the community, without considering whether the person's condition has changed.

(3)(a) At the hearing resulting from subsection (1) or (2) of this section, the committed person shall be entitled to be present and to the benefit of all constitutional protections that were afforded to the person at the initial commitment proceeding. The prosecuting agency or the attorney general if requested by the county shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to a jury trial and the right to have experts evaluate him or her on his or her behalf and the court shall appoint an expert if the person is indigent and requests an appointment.

(b) If the issue at the hearing is whether the person should be unconditionally discharged, the burden of proof shall be upon the state to prove beyond a reasonable doubt that the committed person's condition remains such that the person continues to meet the definition of a sexually violent predator. Evidence of the prior commitment trial and disposition is admissible.

(c) If the issue at the hearing is whether the person should be conditionally released to a less restrictive alternative, the burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that conditional release to any proposed less restrictive alternative either: (i) Is not in the best interest of the committed person; or (ii) does not include conditions that would adequately protect the community. Evidence of the prior commitment trial and disposition is admissible.

(4)(a) Probable cause exists to believe that a person's condition has "so changed," under subsection (2) of this section, only when evidence exists, since the person's last commitment trial proceeding, of a substantial change in the person's physical or mental condition such that the person either no longer meets the definition of a sexually violent predator or that a conditional release to a less restrictive alternative is in the person's best interest and conditions can be imposed to adequately protect the community.

(b) A new trial proceeding under subsection (3) of this section may be ordered, or held, only when there is current evidence from a licensed professional of one of the following and the evidence presents a change in condition since the person's last commitment trial proceeding:

(i) An identified physiological change to the person, such as paralysis, stroke, or dementia, that renders the committed person unable to commit a sexually violent act and this change is permanent; or

(ii) A change in the person's mental condition brought about through positive response to continuing participation in treatment which indicates that

the person meets the standard for conditional release to a less restrictive alternative or that the person would be safe to be at large if unconditionally released from commitment.

(c) For purposes of this section, a change in a single demographic factor, without more, does not establish probable cause for a new trial proceeding under subsection (3) of this section. As used in this section, a single demographic factor includes, but is not limited to, a change in the chronological age, marital status, or gender of the committed person.

(5) The jurisdiction of the court over a person civilly committed pursuant to this chapter continues until such time as the person is unconditionally discharged.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 9, 2005.

Passed by the House April 11, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 345

[Engrossed Senate Bill 5583]

ABUSE OF ADOLESCENTS—STAFF TRAINING

AN ACT Relating to older children who are victims of abuse or neglect; and adding new sections to chapter 26.44 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 26.44 RCW to read as follows:

(1) Within existing resources, the department shall develop a curriculum designed to train staff of the department's children's administration who assess or provide services to adolescents on how to screen and respond to referrals to child protective services when those referrals may involve victims of abuse or neglect between the ages of eleven and eighteen. At a minimum, the curriculum developed pursuant to this section shall include:

(a) Review of relevant laws and regulations, including the requirement that the department investigate complaints if a parent's or caretaker's actions result in serious physical or emotional harm or present an imminent risk of serious harm to any person under eighteen;

(b) Review of policies of the department's children's administration that require assessment and screening of abuse and neglect referrals on the basis of risk and not age;

(c) Explanation of safety assessment and risk assessment models;

(d) Case studies of situations in which the department has received reports of alleged abuse or neglect of older children and adolescents;

(e) Discussion of best practices in screening and responding to referrals involving older children and adolescents; and

(f) Discussion of how abuse and neglect referrals related to adolescents are investigated and when law enforcement must be notified.

(2) As it develops its curriculum pursuant to this section, the department shall request that the office of the family and children's ombudsman review and comment on its proposed training materials. The department shall consider the comments and recommendations of the office of the family and children's ombudsman as it develops the curriculum required by this section.

(3) The department shall complete the curriculum materials required by this section no later than December 31, 2005.

(4) Within existing resources, the department shall incorporate training on the curriculum developed pursuant to this section into existing training for child protective services workers who screen intake calls, children's administration staff responsible for assessing or providing services to older children and adolescents, and all new employees of the children's administration responsible for assessing or providing services to older children and adolescents.

NEW SECTION. Sec. 2. A new section is added to chapter 26.44 RCW to read as follows:

(1) The department shall review a sampling of the screening decisions by child protective services related to children between the ages of eleven and eighteen on a quarterly basis through June 30, 2007. The sampling shall consist of not less than the proportionate share of the two and one-half percent of all screening decisions regularly reviewed by the department that are related to children between the ages of eleven and eighteen. The sampling shall be representative of the diversity of screening decisions related to children between the ages of eleven and eighteen.

(2) The department shall use the results of the quarterly reviews required by this section to improve practice and to improve the curriculum required by section 1 of this act. The department shall also report to the governor and the appropriate committees of the legislature on the quarterly reviews required by this section on August 1, 2006, and August 1, 2007.

Passed by the Senate April 18, 2005.

Passed by the House April 11, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 346

[Substitute Senate Bill 5631]

CORRECTIONAL INDUSTRIES

AN ACT Relating to inmate work programs; and amending RCW 72.09.100 and 28A.335.190.

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

Sec. 1. RCW 72.09.100 and 2004 c 167 s 3 are each amended to read as follows:

It is the intent of the legislature to vest in the department the power to provide for a comprehensive inmate work program and to remove statutory and

other restrictions which have limited work programs in the past. It is also the intent of the legislature to ensure that the correctional industries board of directors, in developing and selecting correctional industries work programs, does not encourage the development of, or provide for selection of or contracting for, or the significant expansion of, any new or existing class I correctional industries work programs that unfairly compete with Washington businesses. The legislature intends that the requirements relating to fair competition in the correctional industries work programs be liberally construed by the correctional industries board of directors to protect Washington businesses from unfair competition. For purposes of establishing such a comprehensive program, the legislature recommends that the department consider adopting any or all, or any variation of, the following classes of work programs:

(1) CLASS I: FREE VENTURE INDUSTRIES.

(a) The employer model industries in this class shall be operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. The organization shall produce goods or services for sale to both the public and private sector.

(b) The customer model industries in this class shall be operated and managed by the department to provide Washington state manufacturers or businesses with products or services currently produced or provided by out-of-state or foreign suppliers.

(c) The correctional industries board of directors shall review these proposed industries, including any potential new class I industries work program or the significant expansion of an existing class I industries work program, before the department contracts to provide such products or services. The review shall include the analysis required under RCW 72.09.115 to determine if the proposed correctional industries work program will compete with any Washington business. An agreement for a new class I correctional industries work program, or an agreement for a significant expansion of an existing class I correctional industries work program, that unfairly competes with any Washington business is prohibited.

(d) The department of corrections shall supply appropriate security and custody services without charge to the participating firms.

(e) Inmates who work in free venture industries shall do so at their own choice. They shall be paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located, as determined by the director of correctional industries. If the director cannot reasonably determine the comparable wage, then the pay shall not be less than the federal minimum wage.

(f) An inmate who is employed in the class I program of correctional industries shall not be eligible for unemployment compensation benefits pursuant to any of the provisions of Title 50 RCW until released on parole or discharged.

(2) CLASS II: TAX REDUCTION INDUSTRIES.

(a) Industries in this class shall be state-owned and operated enterprises designed primarily to reduce the costs for goods and services for tax-supported agencies and for nonprofit organizations.

(b)(i) The industries selected for development within this class shall, as much as possible, match the available pool of inmate work skills and aptitudes

with the work opportunities in the free community. The industries shall be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit.

(ii) The products and services of this industry, including purchased products and services necessary for a complete product line, may be sold to the following:

(A) Public agencies~~((~~and~~ to))~~;

(B) Nonprofit organizations~~((~~and~~ to))~~;

(C) Private contractors when the goods purchased will be ultimately used by a public agency or a nonprofit organization;

(D) An employee and immediate family members of an employee of the department of corrections; and

(E) A person under the supervision of the department of corrections and his or her immediate family members.

(iii) The correctional industries board of directors shall authorize the type and quantity of items that may be purchased and sold under (b)(ii)(D) and (E) of this subsection.

(iv) It is prohibited to purchase any item purchased under (b)(ii)(D) and (E) of this subsection for the purpose of resale.

(v) Clothing manufactured by an industry in this class may be donated to nonprofit organizations that provide clothing free of charge to low-income persons.

(c)(i) Class II correctional industries products and services shall be reviewed by the correctional industries board of directors before offering such products and services for sale to private contractors.

(ii) The board of directors shall conduct a yearly marketing review of the products and services offered under this subsection. Such review shall include an analysis of the potential impact of the proposed products and services on the Washington state business community. To avoid waste or spoilage and consequent loss to the state, when there is no public sector market for such goods, byproducts and surpluses of timber, agricultural, and animal husbandry enterprises may be sold to private persons, at private sale. Surplus byproducts and surpluses of timber, agricultural and animal husbandry enterprises that cannot be sold to public agencies or to private persons may be donated to nonprofit organizations. All sales of surplus products shall be carried out in accordance with rules prescribed by the secretary.

(d) Security and custody services shall be provided without charge by the department of corrections.

(e) Inmates working in this class of industries shall do so at their own choice and shall be paid for their work on a gratuity scale which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located and which is approved by the director of correctional industries.

(f) Subject to approval of the correctional industries board, provisions of RCW 41.06.142 shall not apply to contracts with Washington state businesses entered into by the department of corrections through class II industries.

(3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

(a) Industries in this class shall be operated by the department of corrections. They shall be designed and managed to accomplish the following objectives:

(i) Whenever possible, to provide basic work training and experience so that the inmate will be able to qualify for better work both within correctional industries and the free community. It is not intended that an inmate's work within this class of industries should be his or her final and total work experience as an inmate.

(ii) Whenever possible, to provide forty hours of work or work training per week.

(iii) Whenever possible, to offset tax and other public support costs.

(b) Class III correctional industries shall be reviewed by the correctional industries board of directors to set policy for work crews. The department shall present to the board of directors quarterly detail statements showing where work crews worked, what correctional industry class, and the hours worked. The board of directors may review any class III program at its discretion.

(c) Supervising, management, and custody staff shall be employees of the department.

(d) All able and eligible inmates who are assigned work and who are not working in other classes of industries shall work in this class.

(e) Except for inmates who work in work training programs, inmates in this class shall be paid for their work in accordance with an inmate gratuity scale. The scale shall be adopted by the secretary of corrections.

(4) CLASS IV: COMMUNITY WORK INDUSTRIES.

(a) Industries in this class shall be operated by the department of corrections. They shall be designed and managed to provide services in the inmate's resident community at a reduced cost. The services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations.

(b) Class IV correctional industries shall be reviewed by the correctional industries board of directors to set policy for work crews. The department shall present to the board of directors quarterly detail statements showing where work crews worked, what correctional industry class, and the hours worked. The board of directors may review any class IV program at its discretion. Class IV correctional industries operated in work camps established pursuant to RCW 72.64.050 are exempt from the requirements of this subsection (4)(b).

(c) Inmates in this program shall reside in facilities owned by, contracted for, or licensed by the department of corrections. A unit of local government shall provide work supervision services without charge to the state and shall pay the inmate's wage.

(d) The department of corrections shall reimburse participating units of local government for liability and workers compensation insurance costs.

(e) Inmates who work in this class of industries shall do so at their own choice and shall receive a gratuity which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located.

(5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

(a) Programs in this class shall be subject to supervision by the department of corrections. The purpose of this class of industries is to enable an inmate, placed on community supervision, to work off all or part of a community restitution order as ordered by the sentencing court.

(b) Employment shall be in a community restitution program operated by the state, local units of government, or a nonprofit agency.

(c) To the extent that funds are specifically made available for such purposes, the department of corrections shall reimburse nonprofit agencies for workers compensation insurance costs.

Sec. 2. RCW 28A.335.190 and 2000 c 138 s 201 are each amended to read as follows:

(1) When, in the opinion of the board of directors of any school district, the cost of any furniture, supplies, equipment, building, improvements, or repairs, or other work or purchases, except books, will equal or exceed the sum of fifty thousand dollars, complete plans and specifications for such work or purchases shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids therefor and that specifications and other information may be examined at the office of the board or any other officially designated location: PROVIDED, That the board without giving such notice may make improvements or repairs to the property of the district through the shop and repair department of such district when the total of such improvements or repair does not exceed the sum of (a) fifteen thousand dollars, for districts with fifteen thousand five hundred or more full-time equivalent students; or (b) for districts with fewer than fifteen thousand five hundred full-time equivalent students, fifteen thousand dollars if more than one craft or trade is involved with the school district improvement or repair, or ten thousand dollars if a single craft or trade is involved with the school district improvement or repair. The cost of any public work, improvement or repair for the purposes of this section shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. The bids shall be in writing and shall be opened and read in public on the date and in the place named in the notice and after being opened shall be filed for public inspection.

(2) Every purchase of furniture, equipment or supplies, except books, the cost of which is estimated to be in excess of fifteen thousand dollars, shall be on a competitive basis. The board of directors shall establish a procedure for securing telephone and/or written quotations for such purchases. Whenever the estimated cost is from fifteen thousand dollars up to fifty thousand dollars, the procedure shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal. Whenever the estimated cost is in excess of fifty thousand dollars, the public bidding process provided in subsection (1) of this section shall be followed.

(3) Any school district may purchase goods produced or provided in whole or in part from class II inmate work programs operated by the department of corrections pursuant to RCW 72.09.100, including but not limited to furniture, equipment, or supplies. School districts are encouraged to set as a target to contract, beginning after June 30, 2006, to purchase up to one percent of the total goods required by the school districts each year, goods produced or provided in whole or in part from class II inmate work programs operated by the department of corrections.

(4) Every building, improvement, repair or other public works project, the cost of which is estimated to be in excess of (a) fifteen thousand dollars, for districts with fifteen thousand five hundred or more full-time equivalent students; or (b) for districts with fewer than fifteen thousand five hundred full-

time equivalent students, fifteen thousand dollars if more than one craft or trade is involved with the school district improvement or repair, or ten thousand dollars if a single craft or trade is involved with the school district improvement or repair, shall be on a competitive bid process. Whenever the estimated cost of a public works project is fifty thousand dollars or more, the public bidding process provided in subsection (1) of this section shall be followed unless the contract is let using the small works roster process in RCW 39.04.155 or under any other procedure authorized for school districts. One or more school districts may authorize an educational service district to establish and operate a small works roster for the school district under the provisions of RCW 39.04.155.

~~((4))~~ (5) The contract for the work or purchase shall be awarded to the lowest responsible bidder as defined in RCW 43.19.1911 but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. On any work or purchase the board shall provide bidding information to any qualified bidder or the bidder's agent, requesting it in person.

~~((5))~~ (6) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: PROVIDED, That an "emergency", for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action.

~~((6))~~ (7) This section does not apply to the direct purchase of school buses by school districts and educational services in accordance with RCW 28A.160.195.

Passed by the Senate April 18, 2005.

Passed by the House April 7, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 347

[Senate Bill 5898]

POSTPARTUM DEPRESSION—PUBLIC INFORMATION CAMPAIGN

AN ACT Relating to postpartum depression; adding new sections to chapter 43.121 RCW; and making an appropriation.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.121 RCW to read as follows:

The legislature finds that postpartum depression is a serious condition that affects women of all ages, economic status, and racial and ethnic backgrounds. Postpartum depression includes a range of physical and emotional changes that many mothers can have following the birth of a child, which can be treated with medication and counseling. If untreated, however, postpartum depression can lead to further depression, self-destructive behavior, or even suicide, as well as child abuse, neglect, or death of the infant or other siblings.

NEW SECTION. Sec. 2. A new section is added to chapter 43.121 RCW to read as follows:

The council shall conduct a proactive, public information and communication outreach campaign concerning the significance, signs, and treatment of postpartum depression.

The public information campaign may, within available funds, include production and distribution of a brochure and communication by electronic media, telephone hotlines, and existing parenting education events funded by the council.

NEW SECTION. Sec. 3. The sum of twenty-five thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund to the Washington council for the prevention of child abuse and neglect for the fiscal year ending June 30, 2006, to carry out the purposes of this act.

Passed by the Senate April 18, 2005.

Passed by the House April 11, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 348

[Engrossed Substitute Senate Bill 5997]

BANKS—RECIPROCAL DE NOVO BANK BRANCHING

AN ACT Relating to banks, savings banks, and mutual savings banks branches; amending RCW 30.38.005, 30.38.010, 32.04.030, and 32.32.228; adding a new section to chapter 30.38 RCW; creating a new section; and declaring an emergency.

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

Sec. 1. RCW 30.38.005 and 1996 c 2 s 10 are each amended to read as follows:

As used in this chapter, unless a different meaning is required by the context, the following words and phrases have the following meanings:

(1) "Bank" means any national bank, state bank, and district bank, as those terms are defined in 12 U.S.C. Sec. 1813(a), and any savings association, as defined in 12 U.S.C. Sec. 1813(b).

(2) "Bank holding company" has the meaning set forth in 12 U.S.C. Sec. 1841(a)(1), and also means a savings and loan holding company, as defined in 12 U.S.C. Sec. 1467a.

(3) "Bank supervisory agency" means:

(a) Any agency of another state with primary responsibility for chartering and supervising banks; and

(b) The office of the comptroller of the currency, the federal deposit insurance corporation, the board of governors of the federal reserve system, and any successor to these agencies.

(4) "Control" shall be construed consistently with the provisions of 12 U.S.C. Sec. 1841(a)(2).

(5) "Home state" means with respect to a:

(a) State bank, the state by which the bank is chartered; or

(b) (~~National~~) Federally chartered bank, the state in which the main office of the bank is located under federal law.

(6) "Home state regulator" means, with respect to an out-of-state state bank, the bank supervisory agency of the state in which the bank is chartered.

(7) "Host state" means a state, other than the home state of a bank, in which the bank maintains, or seeks to establish and maintain a branch.

(8) "Interstate combination" means the:

(a) Merger or consolidation of banks with different home states, and the conversion of branches of any bank involved in the merger or consolidation into branches of the resulting bank; or

(b) Purchase of all or substantially all of the assets, including all or substantially all of the branches, of a bank whose home state is different from the home state of the acquiring bank.

(9) "Out-of-state bank" means a bank whose home state is a state other than Washington.

(10) "Out-of-state state bank" means a bank chartered under the laws of any state other than Washington.

(11) "Resulting bank" means a bank that has resulted from an interstate combination under this chapter.

(12) "State" means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(13) "Washington bank" means a bank whose home state is Washington.

(14) "Washington state bank" means a bank organized under Washington banking law.

(15) "Branch" means an office of a bank through which it receives deposits, other than its principal office. Any of the functions or services authorized to be engaged in by a bank may be carried out in an authorized branch office.

(16) "De novo branch" means a branch of a bank located in a host state which:

(a) Is originally established by the bank as a branch; and

(b) Does not become a branch of the bank as a result of:

(i) The acquisition of another bank or a branch of another bank; or

(ii) A merger, consolidation, or conversion involving any such bank or branch.

Sec. 2. RCW 30.38.010 and 1996 c 2 s 11 are each amended to read as follows:

(1) An out-of-state bank may engage in banking in this state without violating RCW 30.04.280 only if the conditions and filing requirements of this chapter are met and the bank was lawfully engaged in banking in this state on June 6, 1996, or the bank's in-state banking activities:

(a) Resulted from an interstate combination pursuant to RCW 30.49.125 or 32.32.500(~~(-)~~);

(b) Resulted from a relocation of a head office of a state bank pursuant to 12 U.S.C. Sec. 30 and RCW 30.04.215(3)(~~(-)~~);

(c) Resulted from a relocation of a main office of a national bank pursuant to 12 U.S.C. Sec. 30(~~(-)~~);

(d) Resulted from the establishment of a branch of a savings bank in compliance with RCW 32.04.030(2); or

(e) Resulted from interstate branching under section 3 of this act.

Nothing in this section affects the authorities of alien banks as defined by RCW 30.42.020 to engage in banking within this state.

(2) The director, consistent with 12 U.S.C. Sec. 1831u(b)(2)(D), may approve an interstate combination if the standard on which the approval is based does not discriminate against out-of-state banks, out-of-state bank holding companies, or subsidiaries of those banks or holding companies.

NEW SECTION. Sec. 3. A new section is added to chapter 30.38 RCW to read as follows:

(1) An out-of-state bank that does not have a branch in Washington may, under this chapter, establish and maintain:

(a) A de novo branch in this state; or

(b) A branch in this state through the acquisition of a branch.

(2) An out-of-state bank desiring to establish and maintain a de novo branch or to acquire a branch in this state shall provide written application of the proposed transaction to the director, accompanied by the fee prescribed by the director, not later than three days after the date of filing with the responsible federal bank supervisory agency for approval to establish or acquire the branch.

(3) The director may not approve an application under subsection (2) of this section unless it is found that:

(a) In the case of a de novo branch, the laws of the home state of the out-of-state bank permit Washington banks to establish and maintain de novo branches in that state under substantially the same, or at least as favorable, terms and conditions as set forth in this chapter; or

(b) In the case of a branch established through the acquisition of a branch, the laws of the home state of the out-of-state bank permit Washington banks to establish and maintain branches in that state through the acquisition of branches under terms and conditions that are substantially the same, or at least as favorable, as set forth in this chapter.

Sec. 4. RCW 32.04.030 and 1996 c 2 s 21 are each amended to read as follows:

(1) A savings bank may not, without the written approval of the director, establish and operate branches in any place.

(2) A savings bank headquartered in this state desiring to establish a branch shall file a written application with the director, who shall approve or disapprove the application.

(3) The director's approval shall be conditioned on a finding that the savings bank has a satisfactory record of compliance with applicable laws and has a satisfactory financial condition. In making such findings, the director may rely on an application in the form filed with the federal deposit insurance corporation pursuant to 12 U.S.C. Sec. 1828(d). If the application for a branch is not approved, the savings bank shall have the right to appeal in the same manner and within the same time as provided by RCW 32.08.050 and 32.08.060. The savings bank when delivering the application to the director shall transmit to the director a check in an amount established by rule to cover the expense of the investigation. A savings bank headquartered in this state shall not move its headquarters or any branch more than two miles from its existing location without prior approval of the director. On or before the date on which it opens any office at which it will transact business in any state, territory, province, or

other jurisdiction, a savings bank shall give written notice to the director of the location of this office. No such notice shall become effective until it has been delivered to the director.

(4) The board of trustees of a savings bank, after notice to the director, may discontinue the operation of a branch. The savings bank shall keep the director informed in the matter and shall notify the director of the date operation of the branch is discontinued.

~~((4))~~ (5) A savings bank that is headquartered in this state and is operating branches in another state, territory, province, or other jurisdiction may provide copies of state examination reports and reports of condition of the savings bank to the regulator having oversight responsibility with regard to its operations in that other jurisdiction, including the regulator of savings associations in the event such a savings bank is transacting savings and loan business pursuant to RCW 32.08.142 in that other jurisdiction.

~~((2))~~ (6) No savings bank headquartered in another state may establish, or acquire pursuant to RCW 32.32.500, and operate branches as a savings bank in any place within the state unless:

(a) The savings bank has filed with the director an agreement to comply with the requirements of RCW 30.38.040 for periodic reports by the savings bank or by the appropriate state superintendent or equivalent regulator of the savings bank under the laws of the state in which the savings bank is incorporated, unless the laws expressly require the provision of all the reports to the director;

(b) The savings bank has filed with the director (i) a duly executed instrument in writing, by its terms of indefinite duration and irrevocable, appointing the director and his or her successors its true and lawful attorney, upon whom all process in any action or proceeding against it in a cause of action arising out of business transacted by such savings bank in this state, may be served with the same force and effect as if it were a domestic corporation and had been lawfully served with process within the state, and (ii) a written certificate of designation, which may be changed from time to time by the filing of a new certificate of designation, specifying the name and address of the officer, agent, or other person to whom such process shall be forwarded by the director; ~~(and)~~

(c) The savings bank has supplied the director with such information as he or she shall require by rule, not to exceed the information on which the director may rely in approving a branch application pursuant to this section by a savings bank headquartered in this state; and

(d) The laws of the state in which the out-of-state savings bank is chartered permit savings banks chartered under this title to establish or acquire, and maintain branches in that state, under terms and conditions that are substantially the same as, or at least as favorable to, the terms and conditions for the chartering of savings banks under this title.

(7) A savings bank headquartered in another state may not establish and operate branches as a foreign savings association in any place within the state except upon compliance with chapter 33.32 RCW.

(8) Notwithstanding any provision of this title to the contrary, an out-of-state depository institution may not branch in the state of Washington, unless a Washington state bank, bank holding company, savings bank, savings bank

holding company, savings and loan association, or savings and loan holding company is permitted to branch in the state in which that out-of-state depository institution is chartered or in which its principal office is located, under terms and conditions that are substantially the same as, or at least as favorable to entry as, the terms and conditions for branching of savings banks under this title. As used in this subsection, "out-of-state depository institution" means a bank or bank holding company, or a converted mutual savings bank or the holding company of a mutual savings bank, which is chartered in or whose principal office is located in another state, or a savings and loan association or the holding company of a savings and loan association, which is chartered in another state.

Sec. 5. RCW 32.32.228 and 1994 c 92 s 366 are each amended to read as follows:

(1) As used in this section, the following definitions apply:

(a) "Control" means directly or indirectly alone or in concert with others to own, control, or hold the power to vote twenty-five percent or more of the outstanding stock or voting power of the controlled entity;

(b) "Acquiring depository institution" means a bank or bank holding company, or a converted mutual savings bank or the holding company of a mutual savings bank, or a savings and loan association or the holding company of a savings and loan association, which is chartered in or whose principal office is located in another state, and which seeks to acquire control of a Washington savings bank;

(c) "Acquiring party" means the person acquiring control of a bank through the purchase of stock;

~~((e))~~ (d) "Person" means any individual, corporation, partnership, group acting in concert, association, business trust, or other organization.

(2)(a) It is unlawful for any person to acquire control of a converted savings bank until thirty days after filing with the director a completed application. The application shall be under oath or affirmation, and shall 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 bank depositors, borrowers, or shareholders and the public interest:

(i) The identity and banking and business experience of each person by whom or on whose behalf acquisition is to be made;

(ii) The financial and managerial resources and future prospects of each person involved in the acquisition;

(iii) The terms and conditions of any proposed acquisition and the manner in which the acquisition is to be made;

(iv) 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;

(v) Any plan or proposal which any person making the acquisition may have to liquidate the bank, to sell its assets, to merge it with any other bank, or to make any other major change in its business or corporate structure or management;

(vi) 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;

(vii) 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; and

(viii) Such additional information as shall be necessary to satisfy the director, in the exercise of the director's discretion, that each such person and associate meets the standards of character, responsibility, and general fitness established for incorporators of a savings bank under RCW 32.08.040.

~~(b)(i) Notwithstanding any other provision of this section, ((a bank or bank holding company which has been in operation for at least three consecutive years or a converted mutual savings bank or the holding company of a mutual savings bank need only notify)) and subject to (b)(ii) of this subsection, an acquiring depository institution must apply to the director and notify the savings bank to be acquired of an intent to acquire control and the date of the proposed acquisition of control at least thirty days before the date of the acquisition of control.~~

(ii) Except to the extent of any conflict with applicable federal law, (b)(i) of this subsection does not apply to an acquiring depository institution that is seeking to acquire control of a Washington savings bank unless the home state of the acquiring depository institution permits a Washington converted mutual savings bank, or the Washington-chartered holding company of a mutual savings bank, to acquire control of a controlled entity that is chartered in or whose principal office is located in that home state, unless under terms and conditions that are substantially the same as, or at least as favorable to entry as, those provided under (b)(i) of this subsection.

(c) 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 (a)(i), (ii), (vi), and (viii) of this subsection be given with respect to each person, as defined in subsection (1)((~~e~~)) (d) of this section, who has an interest in or controls a person filing an application under this subsection.

(d) When a corporation is required to file an application under this section, the director may require that information required by (a)(i), (ii), (vi), and (viii) of this subsection be given for the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of twenty-five percent or more of the outstanding voting securities of the corporation.

(e) 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.

(f) Any acquiring party shall also deliver a copy of any notice or application required by this section to the savings bank proposed to be acquired within two days after such notice or application is filed with the director.

(g) Any acquisition of control in violation of this section shall be ineffective and void.

(h) Any person who willfully or intentionally violates this section or any rule adopted under this section is guilty of a gross misdemeanor pursuant to chapter 9A.20 RCW. Each day's violation shall be considered a separate violation, and any person shall upon conviction be fined not more than one thousand dollars for each day the violation continues.

(3) The director may disapprove the acquisition of a savings bank within thirty days after the filing of a complete application pursuant to subsections (1) and (2) of this section or an extended period not exceeding an additional fifteen days if:

(a) The poor financial condition of any acquiring party might jeopardize the financial stability of the savings bank or might prejudice the interest of depositors, borrowers, or shareholders;

(b) The plan or proposal of the acquiring party to liquidate the savings bank, to sell its assets, to merge it with any person, or to make any other major change in its business or corporate structure or management is not fair and reasonable to its depositors, borrowers, or stockholders or is not in public interest;

(c) The banking and business experience and integrity of any acquiring party who would control the operation of the savings bank indicates that approval would not be in the interest of the savings bank's depositors, borrowers, or shareholders;

(d) The information provided by the application is insufficient for the director to make a determination or there has been insufficient time to verify the information provided and conduct an examination of the qualification of the acquiring party; or

(e) The acquisition would not be in the public interest.

An acquisition may be made prior to expiration of the disapproval period if the director issues written notice of intent not to disapprove the action.

The director shall set forth the basis for disapproval of any proposed acquisition in writing and shall provide a copy of such findings and order to the applicants and to the bank involved. Such findings and order shall not be disclosed to any other party and shall not be subject to public disclosure under chapter 42.17 RCW unless the findings and/or order are appealed pursuant to chapter 34.05 RCW.

Whenever such a change in control occurs, each party to the transaction shall report promptly to the director any changes or replacement of its chief executive officer or of any director occurring in the next twelve-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

(4)(a) For a period of ten years following the acquisition of control by any person, neither such acquiring party nor any associate shall receive any loan or the use of any of the funds of, nor purchase, lease, or otherwise receive any property from, nor receive any consideration from the sale, lease, or any other conveyance of property to, any savings bank in which the acquiring party has control except as provided in (b) of this subsection.

(b) Upon application by any acquiring party or associate subject to (a) of this subsection, the director may approve a transaction between a converted savings bank and such acquiring party, person, or associate, upon finding that the

terms and conditions of the transaction are at least as advantageous to the savings bank as the savings bank would obtain in a comparable transaction with an unaffiliated person.

(5) Except with the consent of the director, no converted savings bank shall, for the purpose of enabling any person to purchase any or all shares of its capital stock, pledge or otherwise transfer any of its assets as security for a loan to such person or to any associate, or pay any dividend to any such person or associate. Nothing in this section shall prohibit a dividend of stock among shareholders in proportion to their shareholdings. In the event any clause of this section is declared to be unconstitutional or otherwise invalid, all remaining dependent and independent clauses of this section shall remain in full force and effect.

NEW SECTION. Sec. 6. This act does not prohibit any merger of a domestic stock savings bank, organized under Title 32 RCW, with any out-of-state national bank having total assets of less than two hundred million dollars that is directly, or indirectly through a registered bank holding company, controlled, through ownership of the majority of voting stock or otherwise, by residents of the state of Washington, if an application for approval by the department of financial institutions of the proposed merger has been submitted on or prior to the effective date of this act.

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

Passed by the Senate April 16, 2005.

Passed by the House April 7, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 349

[Substitute Senate Bill 5951]

PUBLIC DISCLOSURE—HORSE RACING LICENSES

AN ACT Relating to exempting a horse racing license from public inspection; reenacting and amending RCW 42.17.310; and declaring an emergency.

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

Sec. 1. RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) 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.

(e) 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 public disclosure 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 public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) 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.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) 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 (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW

and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 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.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses or residential telephone numbers of employees or volunteers of a public agency which are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.040 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) 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.

(aa) 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.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) 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.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) 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.

(kk) Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043.

(ll) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.

(mm) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons.

(nn) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety.

(oo) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310. If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this section as exempt from disclosure. If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality.

(pp) 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.

(qq) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units.

(rr) 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).

(ss) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law.

(tt) 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), liquor license, gambling license, or lottery retail license.

(uu) Records maintained by the employment security department and subject to chapter 50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes.

(vv) Individually identifiable information received by the work force training and education coordinating board for research or evaluation purposes.

(ww) 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:

(i) 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

(ii) 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.

(xx) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data. However, this information may be released to government agencies concerned with the management of fish and wildlife resources.

(yy) Sensitive wildlife data obtained by the department of fish and wildlife. However, sensitive wildlife data may be released to government agencies concerned with the management of fish and wildlife resources. Sensitive wildlife data includes:

(i) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(ii) Radio frequencies used in, or locational data generated by, telemetry studies; or

(iii) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(A) The species has a known commercial or black market value;

(B) There is a history of malicious take of that species; or

(C) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

(zz) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag. However, the department of fish and wildlife may disclose personally identifying information to:

(i) Government agencies concerned with the management of fish and wildlife resources;

(ii) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(iii) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040.

(aaa)(i) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have not been commingled with other recorded documents. These records will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding that veteran's general power of attorney, or to anyone else designated in writing by that veteran to receive the records.

(ii) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have been commingled with other records, if the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor. If such a request has been recorded, these records may be released only to the veteran filing the papers, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iii) Discharge papers of a veteran filed at the office of the county auditor after June 30, 2002, are not public records, but will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iv) For the purposes of this subsection (1)(aaa), next of kin of deceased veterans have the same rights to full access to the record. Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister.

(bbb) 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, 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 or any individual's safety.

(ccc) Information compiled by school districts or schools in the development of their comprehensive safe school plans pursuant to RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school.

(ddd) 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.

(eee) 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.

(fff) Proprietary data, trade secrets, or other information that relates to: (i) A vendor's unique methods of conducting business; (ii) data unique to the product or services of the vendor; or (iii) 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.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 16, 2005.

Passed by the House April 6, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 350

[Engrossed Substitute Senate Bill 5952]

TRAMS—LICENSING EXEMPTION

AN ACT Relating to licensing exemptions for transporting persons at horse races; reenacting and amending RCW 46.16.010; and declaring an emergency.

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

Sec. 1. RCW 46.16.010 and 2003 c 353 s 8 and 2003 c 53 s 238 are each reenacted and amended to read as follows:

(1) It is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates therefor as by this chapter provided.

(2) Failure to make initial registration before operation on the highways of this state is a misdemeanor, and any person convicted thereof must be punished

by a fine of no less than three hundred thirty dollars, no part of which may be suspended or deferred.

(3) Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

(4) The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16.028, evading the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable as follows:

(a) For a first offense, up to one year in the county jail and a fine equal to twice the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(b) For a second or subsequent offense, up to one year in the county jail and a fine equal to four times the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(c) For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed will be deposited in the vehicle licensing fraud account created in the state treasury;

(d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion.

(5) These provisions shall not apply to the following vehicles:

(a) Motorized foot scooters;

(b) Electric-assisted bicycles;

(c) Farm vehicles if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law;

(d) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(e) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve: PROVIDED FURTHER, That these provisions shall not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;

(f) "Trams" used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have an average daily traffic of not more than 15,000 vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another;

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

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(6) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 23, 2005.

Passed by the House April 21, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 351

[Substitute Senate Bill 5953]

HORSE RACING—HANDICAPPING CONTESTS

AN ACT Relating to handicapping contests conducted by class 1 racing associations; amending RCW 9.46.0237; and adding a new section to chapter 67.16 RCW.

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

Sec. 1. RCW 9.46.0237 and 1987 c 4 s 10 are each amended to read as follows:

"Gambling," as used in this chapter, means staking or risking something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome. Gambling does not include fishing derbies as defined by this chapter, parimutuel betting and handicapping contests as authorized by chapter 67.16 RCW, bona fide business transactions valid under the law of contracts, including, but not limited to, contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including, but not limited to, contracts of indemnity or guarantee and life, health, or accident insurance. In addition, a contest of chance which is specifically excluded from the definition of lottery under this chapter shall not constitute gambling.

NEW SECTION. **Sec. 2.** A new section is added to chapter 67.16 RCW to read as follows:

Class 1 racing associations may conduct horse race handicapping contests. The commission shall establish rules for the conduct of handicapping contests involving the outcome of multiple horse races.

Passed by the Senate March 15, 2005.

Passed by the House April 11, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 352

[Substitute Senate Bill 6022]

PUBLIC CONSTRUCTION BONDS—SURETY BONDS

AN ACT Relating to surety bonds or insurance for public building or construction contracts; amending RCW 48.30.270; repealing RCW 53.08.145; repealing 2003 c 323 s 2; repealing 2003 c 323 ss 3 and 4 (uncodified); and repealing 2000 c 143 s 3 (uncodified).

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

Sec. 1. RCW 48.30.270 and 2003 c 323 s 1 are each amended to read as follows:

(1) No officer or employee of this state, or of any public agency, public authority or public corporation except a public corporation or public authority created pursuant to agreement or compact with another state, and no person acting or purporting to act on behalf of such officer or employee, or public agency or public authority or public corporation, shall, with respect to any public building or construction contract which is about to be, or which has been competitively bid, require the bidder to make application to, or to furnish

financial data to, or to obtain or procure, any of the surety bonds or contracts of insurance specified in connection with such contract, or specified by any law, general, special or local, from a particular insurer or agent or broker.

(2) No such officer or employee or any person, acting or purporting to act on behalf of such officer or employee shall negotiate, make application for, obtain or procure any of such surety bonds or contracts of insurance, except contracts of insurance for builder's risk or owner's protective liability, which can be obtained or procured by the bidder, contractor or subcontractor.

(3) This section shall not be construed to prevent the exercise by such officer or employee on behalf of the state or such public agency, public authority, or public corporation of its right to approve the form, sufficiency or manner or execution of the surety bonds or contracts of insurance furnished by the insurer selected by the bidder to underwrite such bonds, or contracts of insurance.

(4) Any provisions in any invitation for bids, or in any of the contract documents, in conflict with this section are declared to be contrary to the public policy of this state.

(5) A violation of this section shall be subject to the penalties provided by RCW 48.01.080.

(6) This section shall not apply to(=

~~(a) The public nonprofit corporation authorized under RCW 67.40.020;~~

~~(b) Projects in excess of one hundred million dollars for port districts formed under chapter 53.04 RCW;~~

~~(c) A regional transit authority authorized under RCW 81.112.030; or~~

~~(d) Projects in excess of one hundred million dollars for counties with a population over one million, for projects administered for public hospitals))~~
public construction projects, when the actual or estimated aggregate value of the project, exclusive of insurance and surety costs, exceeds two hundred million dollars. For purposes of applying the two hundred million dollar threshold set forth in this subsection, the term "public construction project" means a project that has a public owner and has phases, segments, or component parts relating to a common geographic site or public transportation system, but does not include the aggregation of unrelated construction projects.

(7) The exclusions specified in subsection (6) of this section do not apply to surety bonds.

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

(1) 2003 c 323 s 2;

(2) 2003 c 323 s 3 (uncodified);

(3) 2003 c 323 s 4 (uncodified);

(4) RCW 53.08.145 (Insurance—Determination of risks, hazards, liabilities—Acquisition of appropriate insurance) and 2000 c 143 s 1; and

(5) 2000 c 143 s 3 (uncodified).

Passed by the Senate April 18, 2005.

Passed by the House April 7, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.

CHAPTER 353

[Substitute House Bill 1791]

DEVELOPMENTAL DISABILITIES COMMUNITY TRUST ACCOUNT

AN ACT Relating to the developmental disabilities community trust account; amending RCW 43.84.092 and 72.01.140; reenacting and amending RCW 43.84.092 and 43.84.092; adding a new section to chapter 71A.20 RCW; repealing RCW 28B.30.820 and 72.01.142; providing effective dates; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 71A.20 RCW to read as follows:

(1) The developmental disabilities community trust account is created in the state treasury. All proceeds from the use of excess property identified in the 2002 joint legislative audit and review committee capital study of the division of developmental disabilities residential habilitation centers at Lakeland Village and Rainier school that would not impact current residential habilitation center operations must be deposited into the account. Income may come from the lease of the land, conservation easements, sale of timber, or other activities short of sale of the property. "Excess property" includes that portion of the property at Rainier school previously under the cognizance and control of Washington State University for use as a dairy/forage research facility. "Proceeds" include the net receipts from the use of all or a portion of the properties. Only investment income from the principal of the proceeds deposited into the trust account may be spent from the account. Moneys in the account may be spent only after appropriation. Expenditures from the account shall be used exclusively to provide family support and/or employment/day services to eligible persons with developmental disabilities who can be served by community-based developmental disability services. It is the intent of the legislature that the account should not be used to replace, supplant, or reduce existing appropriations.

(2) The department shall report on its efforts and strategies to provide income to the developmental disabilities community trust account from the excess property identified in subsection (1) of this section from the lease of the property, sale of timber, or other activity short of sale of the property. The department shall report by June 30, 2006.

(3) The account shall be known as the Dan Thompson memorial developmental disabilities community trust account.

Sec. 2. RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, and 2003 c 48 s 2 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 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 common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the 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 Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure 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 supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 3. RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, 2003 c 150 s 2, and 2003 c 48 s 2 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 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 common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the

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 Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure 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 supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 4. RCW 43.84.092 and 2004 c 242 s 60 are each 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 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 common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education

construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the 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 Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure 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 supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the

pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 5. RCW 72.01.140 and 1981 c 238 s 1 are each amended to read as follows:

The secretary shall:

(1) Make a survey, investigation, and classification of the lands connected with the state institutions under his control, and determine which thereof are of such character as to be most profitably used for agricultural, horticultural, dairying, and stock raising purposes, taking into consideration the costs of making them ready for cultivation, the character of the soil, its depth and fertility, the number of kinds of crops to which it is adapted, the local climatic conditions, the local annual rainfall, the water supply upon the land or available, the needs of all state institutions for the food products that can be grown or produced, and the amount and character of the available labor of inmates at the several institutions;

(2) Establish and carry on suitable farming operations at the several institutions under his control;

(3) Supply the several institutions with the necessary food products produced thereat;

(4) Exchange with, or furnish to, other institutions, food products at the cost of production;

(5) Sell and dispose of surplus food products produced.

~~((This section shall not apply to the Rainier school for which cognizance of farming operations has been transferred to Washington State University by RCW 72.01.142:))~~

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

(1) RCW 28B.30.820 (Dairy/forage and agricultural research facility—Transfer of property and facilities for) and 1981 c 238 s 3; and

(2) RCW 72.01.142 (Transfer of dairy operation from Rainier school) and 1981 c 238 s 2.

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, except for section 3 of this act which takes effect July 1, 2005, and section 4 of this act which takes effect July 1, 2006.

NEW SECTION. Sec. 8. (1) Section 2 of this act expires July 1, 2005.

(2) Section 3 of this act expires July 1, 2006.

Passed by the House April 22, 2005.

Passed by the Senate April 22, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 354

[Substitute House Bill 2085]

WASTE TIRES

AN ACT Relating to cleanup of waste tires; amending RCW 70.95.510, 70.95.530, 70.95.555, and 70.95.560; adding new sections to chapter 70.95 RCW; creating a new section; prescribing penalties; making appropriations; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that discarded tires in unauthorized dump sites pose a health and safety risk to the public. Many of these tire piles have been in existence for a significant amount of time and are a continuing challenge to state and local officials responsible for cleaning up unauthorized dump sites and preventing further accumulation of waste tires. Therefore it is the intent of the legislature to document the extent of the problem, create and fund an effective program to eliminate unauthorized tire piles, and minimize potential future problems and costs.

Sec. 2. RCW 70.95.510 and 1989 c 431 s 92 are each amended to read as follows:

(1) There is levied a one dollar per tire fee on the retail sale of new replacement vehicle tires for a period of five years, beginning ~~((October 1, 1989))~~ July 1, 2005. The fee imposed in this section shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the fee. The fee collected from the buyer by the seller less the ten percent amount retained by the seller as provided in RCW 70.95.535(1) shall be paid to the department of revenue in accordance with RCW 82.32.045.

(2) The department of revenue shall incorporate into the agency's regular audit cycle a reconciliation of the number of tires sold and the amount of revenue collected by the businesses selling new replacement vehicle tires at retail. The department of revenue shall collect on the business excise tax return from the businesses selling new replacement vehicle tires at retail:

(a) The number of tires sold; and

(b) The fee levied in this section.

(3) All other applicable provisions of chapter 82.32 RCW have full force and application with respect to the fee imposed under this section. The department of revenue shall administer this section.

(4) For the purposes of this section, "new replacement vehicle tires" means tires that are newly manufactured for vehicle purposes and does not include retreaded vehicle tires.

NEW SECTION. Sec. 3. A new section is added to chapter 70.95 RCW to read as follows:

The waste tire removal account is created in the state treasury. All receipts from tire fees imposed under RCW 70.95.510 must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures

from the account may be used for the cleanup of unauthorized waste tire piles and measures that prevent future accumulation of unauthorized waste tire piles.

NEW SECTION, Sec. 4. A new section is added to chapter 70.95 RCW to read as follows:

(1) The fee required by this chapter, to be collected by the seller, shall be deemed to be held in trust by the seller until paid to the department of revenue, and any seller who appropriates or converts the fee collected to his or her own use or to any use other than the payment of the fee to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) In case any seller fails to collect the fee imposed in this chapter or, having collected the fee, fails to pay it to the department of revenue in the manner prescribed by this chapter, whether such failure is the result of his or her own acts or the result of acts or conditions beyond his or her control, he or she shall, nevertheless, be personally liable to the state for the amount of the fee.

(3) The amount of the fee, until paid by the buyer to the seller or to the department of revenue, shall constitute a debt from the buyer to the seller and any seller who fails or refuses to collect the fee as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any fee due under this chapter is guilty of a misdemeanor.

Sec. 5. RCW 70.95.530 and 1988 c 250 s 1 are each amended to read as follows:

(1) Moneys in the waste tire removal account may be appropriated to the department of ecology:

~~((4))~~ (a) To provide for funding to state and local governments for the removal of discarded vehicle tires from unauthorized tire dump sites;

~~((2))~~ (b) To accomplish the other purposes of RCW 70.95.020~~((5))~~ as they relate to waste tire cleanup under this chapter; and

~~((3) To fund the study authorized in section 2, chapter 250, Laws of 1988)~~
 (c) To conduct a study of existing tire cleanup sites. The office of financial management shall oversee the study process and approve the completed study. The completed study shall be delivered to the house of representatives and senate transportation committees by November 15, 2005. In conducting the study, the department shall consult on a regular basis with interested parties. The following identified elements at a minimum shall be included in the completed study:

(i) Identification of existing tire cleanup sites in the state of Washington;

(ii) The estimated number of tires in each tire cleanup site;

(iii) A map identifying the location of each one of the tire cleanup sites;

(iv) A photograph of each one of the tire cleanup sites;

(v) The estimated cost for cleanup of each tire site by cost component;

(vi) The estimated reimbursement of costs to be recovered from persons or entities that created or have responsibility for the tire cleanup site;

(vii) Identification of the type of reimbursements for recovery by each of the tire cleanup sites;

(viii) The estimated time frame to begin the cleanup project and the estimated completion date for each tire cleanup site;

(ix) An assessment of local government functions relating to unauthorized tire piles, including cleanup, enforcement, and public health;

(x) Identification of needs in the areas in (c)(ix) of this subsection for each one of the counties; and

(xi) A statewide cleanup plan based on multiple funding options between twenty cents and sixty cents for each new tire sold at retail in the state starting on July 1, 2005. The plan shall include the estimated time frame to begin each of the tire cleanup sites and the estimated completion date for each one of the sites. In addition, the plan must include a process to be followed in selecting entities to perform the tire site cleanups. The 2006 legislature shall determine the final distribution of the tire cleanup fee and the appropriations for this statewide tire cleanup plan.

(2) In spending funds in the account under this section, the department of ecology shall identify communities with the most severe problems with waste tires and provide funds first to those communities to remove accumulations of waste tires.

(3) Immediately after the effective date of this section, the department of ecology shall initiate a pilot project in a city with a population between three and four thousand within a county with a population less than twenty thousand to contract to clean up a formerly licensed tire pile in existence for ten or more years. To begin the project, the department shall seek to use financial assurance funds set aside for clean up of the tire pile. For purposes of this subsection, population figures are the official 2004 population as estimated by the office of financial management for purposes of state revenue allocation.

Sec. 6. RCW 70.95.555 and 1988 c 250 s 4 are each amended to read as follows:

Any person engaged in the business of transporting or storing waste tires shall be licensed by the department. To obtain a license, each applicant must:

(1) Provide assurances that the applicant is in compliance with this chapter and the rules regarding waste tire storage and transportation; ~~((and))~~

(2) Accept liability for and authorize the department to recover any costs incurred in any cleanup of waste tires transported or newly stored by the applicant in violation of this section, or RCW 70.95.560 or section 4 or 8 of this act, or rules adopted thereunder, after the effective date of this section;

(3) Until January 1, 2006, post a bond in the sum of ten thousand dollars in favor of the state of Washington for waste tires transported or stored before the effective date of this section. In lieu of the bond, the applicant may submit financial assurances acceptable to the department;

(4) After January 1, 2006, for waste tires transported or stored before the effective date of this section, or for waste tires transported or stored after the effective date of this section, post a bond in an amount to be determined by the department sufficient to cover the liability for the cost of cleanup of the transported or stored waste tires, in favor of the state of Washington. In lieu of the bond, the applicant may submit financial assurances acceptable to the department;

(5) Be registered in the state of Washington as a business and be in compliance with all state laws, rules, and local ordinances;

(6) Have a federal tax identification number and be in compliance with all applicable federal codes and regulations; and

(7) Report annually to the department the amount of tires transported and their disposition. Failure to report shall result in revocation of the license.

Sec. 7. RCW 70.95.560 and 1989 c 431 s 95 are each amended to read as follows:

(1) Any person who transports or stores waste tires without a license in violation of RCW 70.95.555 shall be guilty of a gross misdemeanor and upon conviction shall be punished under RCW 9A.20.021(2).

(2) Any person who transports or stores waste tires without a license in violation of RCW 70.95.555 is liable for the costs of cleanup of any and all waste tires transported or stored. This subsection does not apply to the storage of waste tires when the storage of the tires occurred before the effective date of this section and the storage was licensed in accordance with RCW 70.95.555 at the time the tires were stored.

NEW SECTION. Sec. 8. A new section is added to chapter 70.95 RCW to read as follows:

No person or business, having documented proof that it legally transferred possession of waste tires to a validly licensed transporter or storer of waste tires or to a validly permitted recycler, has any further liability related to the waste tires legally transferred.

NEW SECTION. Sec. 9. The sum of one hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2006, from the waste tire removal account to the office of financial management to reimburse the department of ecology to complete the study in section 5 of this act.

NEW SECTION. Sec. 10. The sum of forty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 2007, from the waste tire removal account to the department of revenue for administration of the fee established in section 2 of this act.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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 July 1, 2005.

Passed by the House April 19, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 355

[Senate Bill 5254]

LEGISLATIVE YOUTH ADVISORY COUNCIL

AN ACT Relating to a legislative youth advisory council; and adding a new section to chapter 28A.300 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28A.300 RCW to read as follows:

(1) The legislative youth advisory council is established to examine issues of importance to youth, including but not limited to education, employment, strategies to increase youth participation in state and municipal government, safe environments for youth, substance abuse, emotional and physical health, foster care, poverty, homelessness, and youth access to services on a statewide and municipal basis.

(2) The council consists of twenty-two members as provided in this subsection who, at the time of appointment, are aged fourteen to eighteen. The council shall select a chair from among its members.

(a) Five members shall be selected by each of the two major caucuses in the senate, appointed by the secretary of the senate.

(b) Five members shall be selected by each of the two major caucuses in the house of representatives, appointed by the chief clerk of the house of representatives.

(c) The governor shall appoint two members.

(3) Except for initial members, members shall serve two-year terms, and if eligible, may be reappointed for subsequent two-year terms. One-half of the initial members shall be appointed to one-year terms, and these appointments shall be made in such a way as to preserve overall representation on the committee.

(4) The council shall have the following duties:

(a) Advising the legislature on proposed and pending legislation, including state budget expenditures and policy matters relating to youth;

(b) Advising the standing committees of the legislature and study commissions, committees, and task forces regarding issues relating to youth;

(c) Conducting periodic seminars for its members regarding leadership, government, and the legislature; and

(d) Reporting annually by December 1 to the legislature on its activities, including proposed legislation that implements recommendations of the council.

(5) In carrying out its duties under subsection (4) of this section, the council may meet at least three times but not more than six times per year, including not more than two public hearings on issues of importance to youth.

(6) Members shall be reimbursed as provided in RCW 43.03.050 and 43.03.060.

(7) The office of superintendent of public instruction shall provide administration, coordination, and facilitation assistance to the council. The senate and house of representatives may provide policy and fiscal briefings and assistance with drafting proposed legislation. The senate and the house of representatives shall each develop internal policies relating to staff assistance provided to the council. Such policies may include applicable internal personnel and practices guidelines, resource use and expense reimbursement guidelines, and applicable ethics mandates. Provision of funds, resources, and staff, as well as the assignment and direction of staff, remains at all times within the sole discretion of the chamber making the provision.

(8) The office of superintendent of public instruction, the legislature, any agency of the legislature, and any official or employee of such office or agency are immune from liability for any injury that is incurred by or caused by a

member of the youth advisory council and that occurs while the member of the council is performing duties of the council or is otherwise engaged in activities or receiving services for which reimbursement is allowed under subsection (6) of this section. The immunity provided by this subsection does not apply to an injury intentionally caused by the act or omission of an employee or official of the superintendent of public instruction or the legislature or any agency of the legislature.

(9) This section expires June 30, 2007.

Passed by the Senate April 18, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 356

[Substitute Senate Bill 5828]

DIGITAL LEARNING PROGRAMS

AN ACT Relating to digital or online learning; and adding new sections to chapter 28A.150 RCW.

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

NEW SECTION, Sec. 1. A new section is added to chapter 28A.150 RCW to read as follows:

The legislature finds that digital learning courses and programs can provide students with opportunities to study subjects that may not otherwise be available within the students' schools, school districts, or communities. These courses can also meet the instructional needs of students who have scheduling conflicts, students who learn best from technology-based instructional methods, and students who have a need to enroll in schools on a part-time basis. Digital learning courses can also meet the needs of students and families seeking nontraditional learning environments. The legislature further finds that the state rules used by school districts to support some digital learning courses were adopted before these types of courses were created, so the rules are not well-suited to the funding and delivery of digital instruction. It is the intent of the legislature to clarify the funding and delivery requirements for digital learning courses.

NEW SECTION, Sec. 2. A new section is added to chapter 28A.150 RCW to read as follows:

Under RCW 28A.150.260, the superintendent of public instruction shall revise the definition of a full-time equivalent student to include students who receive instruction through digital programs. "Digital programs" means electronically delivered learning that occurs primarily away from the classroom. The superintendent of public instruction has the authority to adopt rules to implement the revised definition beginning with the 2005-2007 biennium for school districts claiming state funding for the programs. The rules shall include but not be limited to the following:

(1) Defining a full-time equivalent student under RCW 28A.150.260 or part-time student under RCW 28A.150.350 based upon the district's estimated average weekly hours of learning activity as identified in the student's learning

plan, as long as the student is found, through monthly evaluation, to be making satisfactory progress; the rules shall require districts providing programs under this section to nonresident students to establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate;

(2) Requiring the board of directors of a school district offering, or contracting under RCW 28A.150.305 to offer, a digital program to adopt and annually review written policies for each program and program provider and to receive an annual report on its digital learning programs from its staff;

(3) Requiring each school district offering or contracting to offer a digital program to report annually to the superintendent of public instruction on the types of programs and course offerings, and number of students participating;

(4) Requiring completion of a program self-evaluation;

(5) Requiring documentation of the district of the student's physical residence;

(6) Requiring that supervision, monitoring, assessment, and evaluation of the digital program be provided by certificated instructional staff;

(7) Requiring each school district offering courses or programs to identify the ratio of certificated instructional staff to full-time equivalent students enrolled in such courses or programs, and to include a description of their ratio as part of the reports required under subsections (2) and (3) of this section;

(8) Requiring reliable methods to verify a student is doing his or her own work; the methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district;

(9) Requiring, for each student receiving instruction in a digital program, a learning plan that includes a description of course objectives and information on the requirements a student must meet to successfully complete the program or courses. The rules shall allow course syllabi and other additional information to be used to meet the requirement for a learning plan;

(10) Requiring that the district assess the educational progress of enrolled students at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district. Part-time students shall also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW. The rules shall address how students who reside outside the geographic service area of the school district are to be assessed;

(11) Requiring that each student enrolled in the program have direct personal contact with certificated instructional staff at least weekly until the student completes the course objectives or the requirements in the learning plan. Direct personal contact is for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities. Direct personal contact may include the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication;

(12) Requiring state-funded public schools or public school programs whose primary purpose is to provide digital learning programs to receive

accreditation through the state accreditation program or through the regional accreditation program;

(13) Requiring state-funded public schools or public school programs whose primary purpose is to provide digital learning to provide information to students and parents on whether or not the courses or programs: Cover one or more of the school district's learning goals or of the state's essential academic learning requirements or whether they permit the student to meet one or more of the state's or district's graduation requirements; and

(14) Requiring that a school district that provides one or more digital courses to a student provide the parent or guardian of the student, prior to the student's enrollment, with a description of any difference between home-based education as described in chapter 28A.200 RCW and the enrollment option selected by the student. The parent or guardian shall sign documentation attesting to his or her understanding of the difference and the documentation shall be retained by the district and made available for audit.

Passed by the Senate April 16, 2005.

Passed by the House April 12, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 357

[Substitute Senate Bill 5902]

SMALL BUSINESS INNOVATION RESEARCH ASSISTANCE PROGRAM

AN ACT Relating to small business and entrepreneurial development; creating a new section; and making an appropriation.

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

NEW SECTION. Sec. 1. (1) The legislature finds that small technology-based firms are the source of approximately one-half of the economy's major innovations and that it is in the interest of the state to increase participation by Washington state small businesses in the federal small business innovation research program by assisting them in becoming small business innovation research program grant recipients.

The legislature further finds that many small business innovators lack the grant-writing skills necessary to prepare a successful small business innovation research program proposal, and the federal program that funded grant-writing assistance has stopped operations. Nearly fifty percent of small businesses trained under the federal program won grants compared to less than ten percent of those that did not receive training.

(2) As used in this section:

(a) "Small business innovation research program" means the program, enacted pursuant to the small business innovation development act of 1982, P.L. 97-219, that provided funds to small businesses to conduct innovative research having commercial application.

(b) "Small business" means a corporation, partnership, sole proprietorship, or individual, operating a business for profit, with two hundred fifty employees or fewer, including employees employed in a subsidiary or affiliated corporation,

that otherwise meets the requirements of the federal small business innovation research program.

(3) The Washington technology center shall establish a small business innovation research assistance program, including a proposal review process, to train and assist Washington small businesses to win phase I small business innovation research program awards.

(a) The Washington technology center shall give priority to first-time small business innovation research program applicants, new businesses, and firms with fewer than ten employees.

(b) The Washington technology center may charge a fee for this service.

NEW SECTION. Sec. 2. The sum of forty-five thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 2007, from the general fund to the department of community, trade, and economic development for the purposes of section 1 of this act.

Passed by the Senate March 14, 2005.

Passed by the House April 20, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 358

[Senate Bill 5127]

HUMAN TRAFFICKING—VICTIMS' SERVICES

AN ACT Relating to services for victims of trafficking of humans; adding a new section to chapter 7.68 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature recognizes that human trafficking is growing to epidemic proportions and that our state is impacted. Human trafficking is one of the greatest threats to human dignity. It is the commodification of human beings and an assault on human values. Washington is, and must continue to be, a national leader at the state level in the fight against human trafficking.

The legislature recognizes there are many state agencies and private organizations that might be called on to provide services to victims of trafficking of humans. Victims of human trafficking are often in need of services such as emergency medical attention, food and shelter, vocational and English language training, mental health counseling, and legal support. The state intends to improve the response of state, local, and private entities to incidents of trafficking of humans. Victims would be better served if there is an established, coordinated system of identifying the needs of trafficking victims, protocols for training of service delivery agencies and staff, timely and appropriate delivery of services, and better investigations and prosecutions of trafficking.

Leadership in providing services to victims of trafficking of humans also extends beyond government efforts and is grounded in the work of highly dedicated individuals and community-based groups. Without these efforts the struggle against human trafficking will be very difficult to win. The legislature, therefore, finds that such efforts merit regular public recognition and appreciation. Such recognition and appreciation will encourage the efforts of all

persons to end human trafficking, and provide the public with information and education about the necessity of its involvement in this struggle.

NEW SECTION. Sec. 2. A new section is added to chapter 7.68 RCW to read as follows:

(1) By July 1, 2005, the director of the department of community, trade, and economic development, or the director's designee, shall within existing resources convene and chair a work group to develop written protocols for delivery of services to victims of trafficking of humans. The director shall invite appropriate federal agencies to consult with the work group for the purpose of developing protocols that, to the extent possible, are in concert with federal statutes, regulations, and policies. In addition to the director of the department of community, trade, and economic development, the following shall be members of the work group: The secretary of the department of health, the secretary of the department of social and health services, the attorney general, the director of the department of labor and industries, the commissioner of the employment security department, a representative of the Washington association of prosecuting attorneys, the chief of the Washington state patrol, two members selected by the Washington association of sheriffs and police chiefs, and five members, selected by the director of the department of community, trade, and economic development from a list submitted by public and private sector organizations that provide assistance to persons who are victims of trafficking. The attorney general, the chief of the Washington state patrol, and the secretaries or directors may designate a person to serve in their place.

Members of the work group shall serve without compensation.

(2) The protocols must meet all of the following minimum standards:

(a) The protocols must apply to the following state agencies: The department of community, trade, and economic development, the department of health, the department of social and health services, the attorney general's office, the Washington state patrol, the department of labor and industries, and the employment security department;

(b) The protocols must provide policies and procedures for interagency coordinated operations and cooperation with government agencies and nongovernmental organizations, agencies, and jurisdictions, including law enforcement agencies and prosecuting attorneys;

(c) The protocols must include the establishment of a data base electronically available to all affected agencies which contains the name, address, and telephone numbers of agencies that provide services to victims of human trafficking; and

(d) The protocols must provide guidelines for providing for the social service needs of victims of trafficking of humans, including housing, health care, and employment.

(3) By January 1, 2006, the work group shall finalize the written protocols and submit them with a report to the legislature and the governor.

(4) The protocols shall be reviewed on a biennial basis by the work group to determine whether revisions are appropriate. The director of the department of community, trade, and economic development, or the director's designee, shall within existing resources reconvene and chair the work group for this purpose.

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 April 18, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 359

[Substitute Senate Bill 5182]

CEMETERIES—MULTIPLE INTERMENT SPACES

AN ACT Relating to single burial use of multiple interment space; adding a new section to chapter 68.04 RCW; and adding a new section to chapter 68.24 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 68.04 RCW to read as follows:

"Multiple interment" means two or more human remains are buried in the ground, in outer burial enclosures or chambers, placed one on top of another, with a ground level surface the same size as a single grave or right of interment.

NEW SECTION. Sec. 2. A new section is added to chapter 68.24 RCW to read as follows:

(1) Every cemetery shall disclose and give to the person making cemetery arrangements a written statement, contract, or other document that indicates all the items of property, merchandise, and service that the customer is purchasing, and the price of those items.

(2) Any cemetery offering single burial use of multiple interment space must include the following disclosure on the written statement, contract, or other document in conspicuous bold face type no smaller than other text provisions in the written statement, contract, or other document, to be initialed by the person making the cemetery arrangements in immediate proximity to the space reserved for the signature lines:

"DISCLOSURE OF MULTIPLE INTERMENT

State law provides that "multiple interment" means two or more noncremated human remains are buried in the ground, in outer burial enclosures or chambers, placed one on top of another, with a ground level surface the same size as a single grave or right of interment."

Passed by the Senate April 16, 2005.

Passed by the House April 8, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 360

[Engrossed Substitute Senate Bill 5186]

PHYSICAL ACTIVITY PROMOTION

AN ACT Relating to increasing the physical activity of Washington citizens; amending RCW 36.70A.070, 36.81.121, 28A.300.040, and 28A.320.015; reenacting and amending RCW 35.77.010 and 79A.05.030; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that regular physical activity is essential to maintaining good health and reducing the rates of chronic disease. The legislature further finds that providing opportunities for walking, biking, horseback riding, and other regular forms of exercise is best accomplished through collaboration between the private sector and local, state, and institutional policymakers. This collaboration can build communities where people find it easy and safe to be physically active. It is the intent of the legislature to promote policy and planning efforts that increase access to inexpensive or free opportunities for regular exercise in all communities around the state.

Sec. 2. RCW 36.70A.070 and 2004 c 196 s 1 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of ground water used for public water supplies. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to,

government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

- (i) Containing or otherwise controlling rural development;
- (ii) Assuring visual compatibility of rural development with the surrounding rural area;
- (iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;
- (iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and ground water resources; and
- (v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more

intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5);

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(14). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030(14). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural

development. In establishing the logical outer boundary the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the department of transportation's six-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry

route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;

(E) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(F) Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the six-year improvement program developed by the department of transportation as required by RCW 47.05.030;

(C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies;

(vii) Pedestrian and bicycle component to include collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6) "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

(c) The transportation element described in this subsection (6), and the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties,

RCW 35.58.2795 for public transportation systems, and RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. The element shall include: (a) A summary of the local economy such as population, employment, payroll, sectors, businesses, sales, and other information as appropriate; (b) a summary of the strengths and weaknesses of the local economy defined as the commercial and industrial sectors and supporting factors such as land use, transportation, utilities, education, work force, housing, and natural/cultural resources; and (c) an identification of policies, programs, and projects to foster economic growth and development and to address future needs. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; and (c) an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(9) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

Sec. 3. RCW 36.81.121 and 1997 c 188 s 1 are each amended to read as follows:

(1) At any time before adoption of the budget, the legislative authority of each county, after one or more public hearings thereon, shall prepare and adopt a comprehensive transportation program for the ensuing six calendar years. If the county has adopted a comprehensive plan pursuant to chapter 35.63 or 36.70 RCW, the inherent authority of a charter county derived from its charter, or chapter 36.70A RCW, the program shall be consistent with this comprehensive plan.

The program shall include proposed road and bridge construction work and other transportation facilities and programs deemed appropriate, and for those counties operating ferries shall also include a separate section showing proposed capital expenditures for ferries, docks, and related facilities. The program shall include any new or enhanced bicycle or pedestrian facilities identified pursuant to RCW 36.70A.070(6) or other applicable changes that promote nonmotorized transit. Copies of the program shall be filed with the county road administration board and with the state secretary of transportation not more than thirty days after its adoption by the legislative authority. The purpose of this section is to assure that each county shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated transportation program. The program may at any time be revised by a majority of the legislative authority but only after a public hearing thereon.

(2) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to

how a county will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for nonmotorized transportation purposes.

(3) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a county shall act to preserve railroad right-of-way in the event the railroad ceases to operate in the county's jurisdiction.

(4) The six-year plan for each county shall specifically set forth those projects and programs of regional significance for inclusion in the transportation improvement program within that region.

Sec. 4. RCW 35.77.010 and 1994 c 179 s 1 and 1994 c 158 s 7 are each reenacted and amended to read as follows:

(1) The legislative body of each city and town, pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive transportation program for the ensuing six calendar years. If the city or town has adopted a comprehensive plan pursuant to chapter 35.63 or 35A.63 RCW, the inherent authority of a first class city derived from its charter, or chapter 36.70A RCW, the program shall be consistent with this comprehensive plan. The program shall include any new or enhanced bicycle or pedestrian facilities identified pursuant to RCW 36.70A.070(6) or other applicable changes that promote nonmotorized transit.

The program shall be filed with the secretary of transportation not more than thirty days after its adoption. Annually thereafter the legislative body of each city and town shall review the work accomplished under the program and determine current city transportation needs. Based on these findings each such legislative body shall prepare and after public hearings thereon adopt a revised and extended comprehensive transportation program before July 1st of each year, and each one-year extension and revision shall be filed with the secretary of transportation not more than thirty days after its adoption. The purpose of this section is to assure that each city and town shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated transportation program. The program may at any time be revised by a majority of the legislative body of a city or town, but only after a public hearing.

The six-year plan for each city or town shall specifically set forth those projects and programs of regional significance for inclusion in the transportation improvement program within that region.

(2) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a city or town will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for nonmotorized transportation purposes.

(3) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a city or town shall act to preserve railroad right-of-way in the event the railroad ceases to operate in the city's or town's jurisdiction.

Sec. 5. RCW 79A.05.030 and 1999 c 249 s 302, 1999 c 155 s 1, and 1999 c 59 s 1 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, and upon such conditions as shall be approved by the commission: PROVIDED, That leases exceeding a twenty-year term shall require a unanimous vote of the commission: PROVIDED FURTHER, That 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 television station leases shall be subject to the provisions of RCW 79A.05.085, only: PROVIDED FURTHER, That 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.

Sec. 6. RCW 28A.300.040 and 1999 c 348 s 6 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state;

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools;

(3) To prepare and have printed such forms, registers, courses of study, rules for the government of the common schools, and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents;

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, of consulting educational service district superintendents or other school officials;

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system and which shall be sold at approximate actual cost of publication and distribution per volume to all other public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules related to the common schools, and such other matter as the state superintendent or the state board of education shall determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount;

(6) To act as ex officio member and the chief executive officer of the state board of education;

(7) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be

certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to;

(8) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct;

(9) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state;

(10) To issue certificates as provided by law;

(11) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education;

(12) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction;

(13) To administer oaths and affirmations in the discharge of the superintendent's official duties;

(14) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office;

(15) To administer family services and programs to promote the state's policy as provided in RCW 74.14A.025;

(16) To promote the adoption of school-based curricula and policies that provide quality, daily physical education for all students, and to encourage policies that provide all students with opportunities for physical activity outside of formal physical education classes;

(17) To perform such other duties as may be required by law.

Sec. 7. RCW 28A.320.015 and 1992 c 141 s 301 are each amended to read as follows:

(1) The board of directors of each school district may exercise the following:

(a) The broad discretionary power to determine and adopt written policies not in conflict with other law that provide for the development and implementation of programs, activities, services, or practices that the board determines will:

(i) Promote the education and daily physical activity of kindergarten through twelfth grade students in the public schools; or

(ii) Promote the effective, efficient, or safe management and operation of the school district;

(b) Such powers as are expressly authorized by law; and

(c) Such powers as are necessarily or fairly implied in the powers expressly authorized by law.

(2) Before adopting a policy under subsection (1)(a) of this section, the school district board of directors shall comply with the notice requirements of the open public meetings act, chapter 42.30 RCW, and shall in addition include in that notice a statement that sets forth or reasonably describes the proposed policy. The board of directors shall provide a reasonable opportunity for public written and oral comment and consideration of the comment by the board of directors.

NEW SECTION. Sec. 8. (1) The health care authority, in coordination with the department of personnel, the department of health, health plans participating in public employees' benefits board programs, and the University of Washington's center for health promotion, may create a worksite health promotion program to develop and implement initiatives designed to increase physical activity and promote improved self-care and engagement in health care decision-making among state employees.

(2) The health care authority shall report to the governor and the legislature by December 1, 2006, on progress in implementing, and evaluating the results of, the worksite health promotion program.

Passed by the Senate April 18, 2005.

Passed by the House April 6, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 361

[Substitute Senate Bill 5242]

INMATES—WEAPON POSSESSION

AN ACT Relating to inmates of local correctional institutions possessing weapons; amending RCW 9.94.040; and prescribing penalties.

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

Sec. 1. RCW 9.94.040 and 1995 c 314 s 4 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 weapon, firearm, or any instrument which, if used, could produce serious bodily injury to the person of another, is guilty of a class B 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 (~~or~~ ~~deadly~~) any weapon, (~~as defined in RCW 9A.04.110~~) firearm, or any

instrument that, if used, could produce serious bodily injury to the person of another, is guilty of a class (~~(B)~~) C felony.

(3) The sentence imposed under this section shall be in addition to any sentence being served.

Passed by the Senate March 9, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 362

[Substitute Senate Bill 5256]

SENTENCING—PROBATIONER RISK ASSESSMENT

AN ACT Relating to misdemeanors and gross misdemeanors; amending RCW 9.94A.501, 9.92.060, 9.95.204, and 9.95.210; and declaring an emergency.

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

Sec. 1. RCW 9.94A.501 and 2003 c 379 s 3 are each amended to read as follows:

(1) When the department performs a risk assessment pursuant to RCW 9.94A.500, or to determine a person's conditions of supervision, the risk assessment shall classify the offender or a probationer sentenced in superior court into one of at least four risk categories.

(2) The department shall supervise every offender sentenced to a term of community custody, community placement, or community supervision and every misdemeanor and gross misdemeanor probationer ordered by a superior court to probation under the supervision of the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

(a) Whose risk assessment places that offender or probationer in one of the two highest risk categories; or

(b) Regardless of the offender's or probationer's risk category if:

(i) The offender's or probationer's current conviction is 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);

(ii) The offender or probationer has a prior conviction 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) The conditions of the offender's community custody, community placement, or community supervision or the probationer's supervision include chemical dependency treatment;

(iv) The offender was sentenced under RCW 9.94A.650 or 9.94A.670; or

(v) The offender is subject to supervision pursuant to RCW 9.94A.745.

(3) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody, community placement, or community supervision or any probationer unless the offender or probationer is one for whom supervision is required under subsection (2) of this section.

(4) This section expires July 1, 2010.

Sec. 2. RCW 9.92.060 and 1996 c 298 s 5 are each amended to read as follows:

(1) Whenever any person is convicted of any crime except murder, burglary in the first degree, arson in the first degree, robbery, rape of a child, or rape, the superior court may, in its discretion, at the time of imposing sentence upon such person, direct that such sentence be stayed and suspended until otherwise ordered by the superior court, and that the sentenced person be placed under the charge of a community corrections officer employed by the department of corrections, or if the county elects to assume responsibility for the supervision of all superior court misdemeanor probationers a probation officer employed or contracted for by the county, upon such terms as the superior court may determine.

(2) As a condition to suspension of sentence, the superior court shall require the payment of the penalty assessment required by RCW 7.68.035. In addition, the superior court may require the convicted person to make such monetary payments, on such terms as the superior court deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when 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; (c) to pay any fine imposed and not suspended and the court or other costs incurred in the prosecution of the case, including reimbursement of the state for costs of extradition if return to this state by extradition was required; and (d) to contribute to a county or interlocal drug fund.

(3) As a condition of the suspended sentence, the superior court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanor probationers within its jurisdiction, the superior court misdemeanor probationer shall report to a probation officer employed or contracted for by the county. In

cases where a superior court misdemeanor probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(4) If restitution to the victim has been ordered under subsection (2)(b) of this section and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made as ordered. If the superior court has ordered supervision and restitution has not been made, the officer shall inform the prosecutor of that violation of the terms of the suspended sentence not less than three months prior to the termination of the suspended sentence.

(5) The provisions of RCW 9.94A.501 apply to sentences imposed under this section.

Sec. 3. RCW 9.95.204 and 1996 c 298 s 1 are each amended to read as follows:

(1) When a superior court places a defendant convicted of a misdemeanor or gross misdemeanor on probation and orders supervision under RCW 9.92.060 or 9.95.210, the department of corrections has initial responsibility for supervision of that defendant.

(2) A county legislative authority may assume responsibility for the supervision of all defendants within its jurisdiction who have been convicted of a misdemeanor or gross misdemeanor and sentenced to probation by a superior court. The assumption of responsibility shall be made by contract with the department of corrections on a biennial basis.

(3) If a county assumes supervision responsibility, the county shall supervise all superior court misdemeanor probationers within that county for the duration of the biennium, as set forth in the contract with the department of corrections.

(4) A contract between a county legislative authority and the department of corrections for the transfer of supervision responsibility must include, at a minimum, the following provisions:

(a) The county's agreement to supervise all misdemeanor probationers who are sentenced by a superior court within that county and who reside within that county;

(b) A reciprocal agreement regarding the supervision of superior court misdemeanor probationers sentenced in one county but who reside in another county;

(c) The county's agreement to comply with the minimum standards for classification and supervision of offenders as required under RCW 9.95.206;

(d) The amount of funds available from the department of corrections to the county for supervision of superior court misdemeanor probationers, calculated according to a formula established by the department of corrections;

(e) A method for the payment of funds by the department of corrections to the county;

(f) The county's agreement that any funds received by the county under the contract will be expended only to cover costs of supervision of superior court misdemeanor probationers;

(g) The county's agreement to account to the department of corrections for the expenditure of all funds received under the contract and to submit to audits

for compliance with the supervision standards and financial requirements of this section;

(h) Provisions regarding rights and remedies in the event of a possible breach of contract or default by either party; and

(i) Provisions allowing for voluntary termination of the contract by either party, with good cause, after sixty days' written notice.

(5) If the contract between the county and the department of corrections is terminated for any reason, the department of corrections shall reassume responsibility for supervision of superior court misdemeanor probationers within that county. In such an event, the department of corrections retains any and all rights and remedies available by law and under the contract.

(6) The state of Washington, the department of corrections and its employees, community corrections officers, and volunteers who assist community corrections officers are not liable for any harm caused by the actions of a superior court misdemeanor probationer who is under the supervision of a county. A county, its probation department and employees, probation officers, and volunteers who assist probation officers are not liable for any harm caused by the actions of a superior court misdemeanor probationer who is under the supervision of the department of corrections. This subsection applies regardless of whether the supervising entity is in compliance with the standards of supervision at the time of the misdemeanor probationer's actions.

(7) The state of Washington, the department of corrections and its employees, community corrections officers, any county under contract with the department of corrections pursuant to this section and its employees, probation officers, and volunteers who assist community corrections officers and probation officers in the superior court misdemeanor probation program are not liable for civil damages resulting from any act or omission in the rendering of superior court misdemeanor probation activities unless the act or omission constitutes gross negligence. For purposes of this section, "volunteers" is defined according to RCW 51.12.035.

(8) The provisions of RCW 9.94A.501 apply to sentences imposed under this section.

Sec. 4. RCW 9.95.210 and 1996 c 298 s 3 are each amended to read as follows:

(1) In granting probation, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

(2) In the order granting probation and as a condition thereof, the superior court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the superior court shall require the payment of the penalty assessment required by RCW 7.68.035. The superior court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when 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; (c) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required; (d) following consideration of the financial condition of the person subject to possible electronic monitoring, to pay for the costs of electronic monitoring if that monitoring was required by the court as a condition of release from custody or as a condition of probation; (e) to contribute to a county or interlocal drug fund; and (f) to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430, and may require bonds for the faithful observance of any and all conditions imposed in the probation.

(3) The superior 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 superior 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 superior court within one year of imposition of the sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the superior court shall hold a restitution hearing and shall enter a restitution order.

(4) In granting probation, the superior court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanor probationers within its jurisdiction, the superior court misdemeanor probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanor probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(5) If the probationer has been ordered to make restitution and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If the superior court has ordered supervision and restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of probation. For defendants found guilty in district court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located.

(6) The provisions of RCW 9.94A.501 apply to sentences imposed under this section.

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

Passed by the Senate March 9, 2005.

Passed by the House April 19, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 363

[Senate Bill 5522]

PUBLIC EMPLOYEES' RETIREMENT—SERVICE CREDITS

AN ACT Relating to purchasing service credit lost due to injury; and amending RCW 41.40.038.

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

Sec. 1. RCW 41.40.038 and 1987 c 118 s 1 are each amended to read as follows:

Those members subject to this chapter who became disabled in the line of duty on or after March 27, 1984, and who received or are receiving benefits under Title 51 RCW or a similar federal workers' compensation program shall receive or continue to receive service credit subject to the following:

(1) No member may receive more than one month's service credit in a calendar month.

(2) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(3) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(4) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(5) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred. If contribution payments are made retroactively, interest shall be charged at the rate set by the director on both employee and employer contributions. No service credit shall be granted until the employee contribution has been paid.

(6) The service and compensation credit shall not be granted for a period to exceed ~~((twelve))~~ twenty-four consecutive months.

(7) Nothing in this section shall abridge service credit rights granted in RCW 41.40.220(2) and 41.40.320.

(8) 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.

Passed by the Senate April 19, 2005.

Passed by the House April 5, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 364

[Engrossed Substitute Senate Bill 5577]

LANDLORD-TENANT—RELOCATION ASSISTANCE

AN ACT Relating to relocation assistance payments to tenants; amending RCW 59.18.085 and 35.80.030; creating new sections; and prescribing penalties.

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

NEW SECTION. Sec. 1. The people of the state of Washington deserve decent, safe, and sanitary housing. Certain tenants in the state of Washington have remained in rental housing that does not meet the state's minimum standards for health and safety because they cannot afford to pay the costs of relocation in advance of occupying new, safe, and habitable housing. In egregious cases, authorities have been forced to condemn property when landlords have failed to remedy building code or health code violations after repeated notice, and, as a result, families with limited financial resources have been displaced and left with nowhere to go.

The purpose of this act is to establish a process by which displaced tenants would receive funds for relocation from landlords who fail to provide safe and sanitary housing after due notice of building code or health code violations. It is also the purpose of this act to provide enforcement mechanisms to cities, towns, counties, or municipal corporations including the ability to advance relocation funds to tenants who are displaced as a result of a landlord's failure to remedy building code or health code violations and later to collect the full amounts of these relocation funds, along with interest and penalties, from landlords.

Sec. 2. RCW 59.18.085 and 1989 c 342 s 13 are each amended to read as follows:

(1) If a governmental agency responsible for the enforcement of a building, housing, or other appropriate code has notified the landlord that a dwelling is condemned or unlawful to occupy due to the existence of conditions that violate applicable codes, statutes, ordinances, or regulations, a landlord shall not enter into a rental agreement for the dwelling unit until the conditions are corrected.

(2) If a landlord knowingly violates subsection (1) of this section, the tenant shall recover either three months' periodic rent or up to treble the actual damages sustained as a result of the violation, whichever is greater, costs of suit, or arbitration and reasonable attorneys' fees. If the tenant elects to terminate the tenancy as a result of the conditions leading to the posting, or if the appropriate governmental agency requires that the tenant vacate the premises, the tenant also shall recover:

- (a) The entire amount of any deposit prepaid by the tenant; and
- (b) All prepaid rent.

(3)(a) If a governmental agency responsible for the enforcement of a building, housing, or other appropriate code has notified the landlord that a dwelling will be condemned or will be unlawful to occupy due to the existence of conditions that violate applicable codes, statutes, ordinances, or regulations, a landlord, who knew or should have known of the existence of these conditions, shall be required to pay relocation assistance to the displaced tenants except that:

(i) A landlord shall not be required to pay relocation assistance to any displaced tenant in a case in which the condemnation or no occupancy order affects one or more dwelling units and directly results from conditions caused by a tenant's or any third party's illegal conduct without the landlord's prior knowledge;

(ii) A landlord shall not be required to pay relocation assistance to any displaced tenant in a case in which the condemnation or no occupancy order affects one or more dwelling units and results from conditions arising from a

natural disaster such as, but not exclusively, an earthquake, tsunami, wind storm, or hurricane; and

(iii) A landlord shall not be required to pay relocation assistance to any displaced tenant in a case in which a condemnation affects one or more dwelling units and the tenant's displacement is a direct result of the acquisition of the property by eminent domain.

(b) Relocation assistance provided to displaced tenants under this subsection shall be the greater amount of two thousand dollars per dwelling unit or three times the monthly rent. In addition to relocation assistance, the landlord shall be required to pay to the displaced tenants the entire amount of any deposit prepaid by the tenant and all prepaid rent.

(c) The landlord shall pay relocation assistance and any prepaid deposit and prepaid rent to displaced tenants within seven days of the governmental agency sending notice of the condemnation, eviction, or displacement order to the landlord. The landlord shall pay relocation assistance and any prepaid deposit and prepaid rent either by making individual payments by certified check to displaced tenants or by providing a certified check to the governmental agency ordering condemnation, eviction, or displacement, for distribution to the displaced tenants. If the landlord fails to complete payment of relocation assistance within the period required under this subsection, the city, town, county, or municipal corporation may advance the cost of the relocation assistance payments to the displaced tenants.

(d) During the period from the date that a governmental agency responsible for the enforcement of a building, housing, or other appropriate code first notifies the landlord of conditions that violate applicable codes, statutes, ordinances, or regulations to the time that relocation assistance payments are paid to eligible tenants, or the conditions leading to the notification are corrected, the landlord may not:

(i) Evict, harass, or intimidate tenants into vacating their units for the purpose of avoiding or diminishing application of this section;

(ii) Reduce services to any tenant; or

(iii) Materially increase or change the obligations of any tenant, including but not limited to any rent increase.

(e) Displaced tenants shall be entitled to recover any relocation assistance, prepaid deposits, and prepaid rent required by (b) of this subsection. In addition, displaced tenants shall be entitled to recover any actual damages sustained by them as a result of the condemnation, eviction, or displacement that exceed the amount of relocation assistance that is payable. In any action brought by displaced tenants to recover any payments or damages required or authorized by this subsection (3)(e) or (c) of this subsection that are not paid by the landlord or advanced by the city, town, county, or municipal corporation, the displaced tenants shall also be entitled to recover their costs of suit or arbitration and reasonable attorneys' fees.

(f) If, after sixty days from the date that the city, town, county, or municipal corporation first advanced relocation assistance funds to the displaced tenants, a landlord has failed to repay the amount of relocation assistance advanced by the city, town, county, or municipal corporation under (c) of this subsection, then the city, town, county, or municipal corporation shall assess civil penalties in the

amount of fifty dollars per day for each tenant to whom the city, town, county, or municipal corporation has advanced a relocation assistance payment.

(g) In addition to the penalties set forth in (f) of this subsection, interest will accrue on the amount of relocation assistance paid by the city, town, county, or municipal corporation for which the property owner has not reimbursed the city, town, county, or municipal corporation. The rate of interest shall be the maximum legal rate of interest permitted under RCW 19.52.020, commencing thirty days after the date that the city first advanced relocation assistance funds to the displaced tenants.

(h) If the city, town, county, or municipal corporation must initiate legal action in order to recover the amount of relocation assistance payments that it has advanced to low-income tenants, including any interest and penalties under (f) and (g) of this subsection, the city, town, county, or municipal corporation shall be entitled to attorneys' fees and costs arising from its legal action.

(4) The government agency that has notified the landlord that a dwelling will be condemned or will be unlawful to occupy shall notify the displaced tenants that they may be entitled to relocation assistance under this section.

(5) No payment received by a displaced tenant under this section may be considered as income for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law or for the purposes of any tax imposed under Title 82 RCW, and the payments shall not be deducted from any amount to which any recipient would otherwise be entitled under Title 74 RCW.

Sec. 3. RCW 35.80.030 and 1989 c 133 s 3 are each amended to read as follows:

(1) Whenever the local governing body of a municipality finds that one or more conditions of the character described in RCW 35.80.010 exist within its territorial limits, ~~((said))~~ that governing body may adopt ordinances relating to such dwellings, buildings, structures, or premises. Such ordinances may provide for the following:

(a) That an "improvement board" or officer be designated or appointed to exercise the powers assigned to such board or officer by the ordinance as specified ~~((herein. Said))~~ in this section. The board or officer may be an existing municipal board or officer in the municipality, or may be a separate board or officer appointed solely for the purpose of exercising the powers assigned by ~~((said))~~ the ordinance.

If a board is created, the ordinance shall specify the terms, method of appointment, and type of membership of ~~((said))~~ the board, which may be limited, if the local governing body chooses, to public officers ~~((as herein defined))~~ under this section.

(b) That if a board is created, a public officer, other than a member of the improvement board, may be designated to work with the board and carry out the duties and exercise the powers assigned to ~~((said))~~ the public officer by the ordinance.

(c) That if, after a preliminary investigation of any dwelling, building, structure, or premises, the board or officer finds that it is unfit for human habitation or other use, he or she shall cause to be served either personally or by certified mail, with return receipt requested, upon all persons having any interest therein, as shown upon the records of the auditor's office of the county in which

such property is located, and shall post in a conspicuous place on such property, a complaint stating in what respects such dwelling, building, structure, or premises is unfit for human habitation or other use. If the whereabouts of any of such persons is unknown and the same cannot be ascertained by the board or officer in the exercise of reasonable diligence, and the board or officer makes an affidavit to that effect, then the serving of such complaint or order upon such persons may be made either by personal service or by mailing a copy of the complaint and order by certified mail, postage prepaid, return receipt requested, to each such person at the address of the building involved in the proceedings, and mailing a copy of the complaint and order by first class mail to any address of each such person in the records of the county assessor or the county auditor for the county where the property is located. Such complaint shall contain a notice that a hearing will be held before the board or officer, at a place therein fixed, not less than ten days nor more than thirty days after the serving of ~~((said))~~ the complaint; and that all parties in interest shall be given the right to file an answer to the complaint, to appear in person, or otherwise, and to give testimony at the time and place in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the board or officer. A copy of such complaint shall also be filed with the auditor of the county in which the dwelling, building, structure, or ~~((premise—premises))~~ premises is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

(d) That the board or officer may determine that a dwelling, building, structure, or premises is unfit for human habitation or other use if it finds that conditions exist in such dwelling, building, structure, or premises which are dangerous or injurious to the health or safety of the occupants of such dwelling, building, structure, or premises, the occupants of neighboring dwellings, or other residents of such municipality. Such conditions may include the following, without limitations: Defects therein increasing the hazards of fire or accident; inadequate ventilation, light, or sanitary facilities, dilapidation, disrepair, structural defects, uncleanliness, overcrowding, or inadequate drainage. The ordinance shall state reasonable and minimum standards covering such conditions, including those contained in ordinances adopted in accordance with ~~((subdivision))~~ subsection (7)(a) ~~((herein))~~ of this section, to guide the board or the public officer and the agents and employees of either, in determining the fitness of a dwelling for human habitation, or building, structure, or premises for other use.

(e) That the determination of whether a dwelling, building, structure, or premises should be repaired or demolished, shall be based on specific stated standards on (i) the degree of structural deterioration of the dwelling, building, structure, or premises, or (ii) the relationship that the estimated cost of repair bears to the value of the dwelling, building, structure, or premises, with the method of determining this value to be specified in the ordinance.

(f) That if, after the required hearing, the board or officer determines that the dwelling is unfit for human habitation, or building or structure or premises is unfit for other use, it shall state in writing its findings of fact in support of such determination, and shall issue and cause to be served upon the owner or party in interest thereof, as is provided in ~~((subdivision (1)))~~ (c) of this subsection, and shall post in a conspicuous place on ~~((said))~~ the property, an order ~~((which))~~ that

(i) requires the owner or party in interest, within the time specified in the order, to repair, alter, or improve such dwelling, building, structure, or premises to render it fit for human habitation, or for other use, or to vacate and close the dwelling, building, structure, or premises, if such course of action is deemed proper on the basis of the standards set forth as required in ~~((subdivision (1)))~~ of this subsection; or (ii) requires the owner or party in interest, within the time specified in the order, to remove or demolish such dwelling, building, structure, or premises, if this course of action is deemed proper on the basis of ~~((said))~~ those standards. If no appeal is filed, a copy of such order shall be filed with the auditor of the county in which the dwelling, building, structure, or premises is located.

(g) ~~That~~ the owner or any party in interest, within thirty days from the date of service upon the owner and posting of an order issued by the board under ~~((the provisions of subdivision))~~ (c) of this subsection, may file an appeal with the appeals commission.

The local governing body of the municipality shall designate or establish a municipal agency to serve as the appeals commission. The local governing body shall also establish rules of procedure adequate to assure a prompt and thorough review of matters submitted to the appeals commission, and such rules of procedure shall include the following, without being limited thereto: (i) All matters submitted to the appeals commission must be resolved by the commission within sixty days from the date of filing therewith and (ii) a transcript of the findings of fact of the appeals commission shall be made available to the owner or other party in interest upon demand.

The findings and orders of the appeals commission shall be reported in the same manner and shall bear the same legal consequences as if issued by the board, and shall be subject to review only in the manner and to the extent provided in ~~((subdivision))~~ subsection (2) of this section.

If the owner or party in interest, following exhaustion of his or her rights to appeal, fails to comply with the final order to repair, alter, improve, vacate, close, remove, or demolish the dwelling, building, structure, or premises, the board or officer may direct or cause such dwelling, building, structure, or premises to be repaired, altered, improved, vacated, and closed, removed, or demolished.

(h) That the amount of the cost of such repairs, alterations or improvements; or vacating and closing; or removal or demolition by the board or officer, shall be assessed against the real property upon which such cost was incurred unless such amount is previously paid. For purposes of this subsection, the cost of vacating and closing shall include (i) the amount of relocation assistance payments that a property owner has not repaid to a municipality or other local government entity that has advanced relocation assistance payments to tenants under RCW 59.18.085 and (ii) all penalties and interest that accrue as a result of the failure of the property owner to timely repay the amount of these relocation assistance payments under RCW 59.18.085. Upon certification to him or her by the treasurer of the municipality in cases arising out of the city or town or by the county improvement board or officer, in cases arising out of the county, of the assessment amount being due and owing, the county treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be

collected at the same time and with interest at such rates and in such manner as provided for in RCW 84.56.020(~~(, as now or hereafter amended,)~~) for delinquent taxes, and when collected to be deposited to the credit of the general fund of the municipality. If the dwelling, building, structure, or premises is removed or demolished by the board or officer, the board or officer shall, if possible, sell the materials of such dwelling, building, structure, (~~(for)~~) or premises in accordance with procedures set forth in (~~(said)~~) the ordinance, and shall credit the proceeds of such sale against the cost of the removal or demolition and if there be any balance remaining, it shall be paid to the parties entitled thereto, as determined by the board or officer, after deducting the costs incident thereto.

The assessment shall constitute a lien against the property which shall be of equal rank with state, county and municipal taxes.

(2) Any person affected by an order issued by the appeals commission pursuant to (~~(subdivision (1)(f) hereof)~~) subsection (1)(g) of this section may, within thirty days after the posting and service of the order, petition to the superior court for an injunction restraining the public officer or members of the board from carrying out the provisions of the order. In all such proceedings the court is authorized to affirm, reverse, or modify the order and such trial shall be heard de novo.

(3) An ordinance adopted by the local governing body of the municipality may authorize the board or officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this section. These powers shall include the following in addition to others (~~(herein)~~) granted in this section: (a)(i) To determine which dwellings within the municipality are unfit for human habitation; (ii) to determine which buildings, structures, or premises are unfit for other use; (b) to administer oaths and affirmations, examine witnesses, and receive evidence; and (c) to investigate the dwelling and other property conditions in the municipality or county and to enter upon premises for the purpose of making examinations when the board or officer has reasonable ground for believing they are unfit for human habitation, or for other use: PROVIDED, That such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose after submitting evidence in support of an application which is adequate to justify such an order from a court of competent jurisdiction in the event entry is denied or resisted.

(4) The local governing body of any municipality adopting an ordinance pursuant to this chapter may appropriate the necessary funds to administer such ordinance.

(5) (~~(Nothing in)~~) This section (~~(shall be construed to)~~) does not abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

(6) (~~(Nothing in)~~) This section (~~(shall be construed to)~~) does not impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

(7) Any municipality may (~~(f)~~) by ordinance adopted by its governing body(~~(s)~~) (a) prescribe minimum standards for the use and occupancy of dwellings throughout the municipality(~~(s)~~) or county, (b) prescribe minimum

standards for the use or occupancy of any building, structure, or premises used for any other purpose, (c) prevent the use or occupancy of any dwelling, building, structure, or premises, (~~which~~) that is injurious to the public health, safety, morals, or welfare, and (d) prescribe punishment for the violation of any provision of such ordinance.

NEW SECTION. Sec. 4. The powers and authority conferred by this act are in addition and supplemental to powers or authority conferred by any other law or authority, and nothing contained herein shall be construed to preempt any local ordinance requiring relocation assistance to tenants displaced by a landlord's failure to remedy building code or health code violations.

Passed by the Senate April 18, 2005.

Passed by the House April 7, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 365

[Substitute Senate Bill 5752]

FUNERAL DIRECTORS—CEMETERIES

AN ACT Relating to funeral directors and cemeteries; amending RCW 18.39.010, 18.39.020, 18.39.035, 18.39.045, 18.39.070, 18.39.100, 18.39.120, 18.39.130, 18.39.170, 18.39.173, 18.39.175, 18.39.181, 18.39.195, 18.39.215, 18.39.217, 18.39.220, 18.39.231, 18.39.250, 18.39.255, 18.39.345, 18.39.410, 18.39.800, 68.04.020, 68.04.030, 68.04.040, 68.04.070, 68.04.080, 68.04.100, 68.04.110, 68.04.120, 68.04.130, 68.04.160, 68.04.165, 68.04.170, 68.04.190, 68.04.210, 68.04.230, 68.04.240, 68.05.010, 68.05.030, 68.05.040, 68.05.050, 68.05.080, 68.05.090, 68.05.100, 68.05.105, 68.05.115, 68.05.150, 68.05.170, 68.05.173, 68.05.195, 68.05.210, 68.05.215, 68.05.225, 68.05.235, 68.05.240, 68.05.245, 68.05.254, 68.05.259, 68.05.285, 68.05.290, 68.05.330, 68.05.340, 68.20.061, 68.20.110, 68.24.010, 68.24.080, 68.24.090, 68.24.100, 68.24.110, 68.24.120, 68.24.130, 68.24.140, 68.24.150, 68.24.160, 68.24.170, 68.24.180, 68.24.190, 68.24.220, 68.28.010, 68.28.020, 68.28.030, 68.28.060, 68.32.010, 68.32.020, 68.32.030, 68.32.040, 68.32.050, 68.32.060, 68.32.070, 68.32.080, 68.32.090, 68.32.100, 68.32.110, 68.32.130, 68.32.140, 68.32.150, 68.32.160, 68.36.010, 68.36.020, 68.36.030, 68.36.040, 68.36.050, 68.40.010, 68.40.025, 68.40.060, 68.44.020, 68.44.070, 68.44.080, 68.44.090, 68.44.100, 68.44.110, 68.44.120, 68.44.130, 68.44.140, 68.44.150, 68.44.160, 68.46.010, 68.46.020, 68.46.030, 68.46.040, 68.46.050, 68.46.055, 68.46.060, 68.46.075, 68.46.080, 68.46.090, 68.46.100, 68.46.110, 68.50.110, 68.50.130, 68.50.140, 68.50.160, 68.50.170, 68.50.185, 68.50.200, 68.50.220, 68.50.230, 68.50.240, 68.50.270, 68.56.040, 68.60.030, 70.58.005, 70.58.082, 70.58.160, 70.58.170, 70.58.180, 70.58.190, 70.58.230, 70.58.240, 70.58.260, and 70.58.390; reenacting and amending RCW 18.39.145 and 18.39.150; adding new sections to chapter 18.39 RCW; adding new sections to chapter 68.04 RCW; adding a new section to chapter 68.46 RCW; repealing RCW 18.39.148, 68.04.090, 68.04.180, 68.04.200, 68.04.220, 68.05.185, 68.20.090, 68.20.130, 68.24.175, 68.32.120, 68.36.090, 68.46.150, 68.50.135, 68.50.145, 68.50.150, 68.50.165, 68.50.180, 68.50.190, and 68.50.250; and prescribing penalties.

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

Sec. 1. RCW 18.39.010 and 2000 c 171 s 10 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Funeral director" means a person engaged in the profession or business of ~~((conducting funerals and supervising or directing the burial and disposal of dead human bodies))~~ providing for the care, shelter, transportation, and

arrangements for the disposition of human remains that may include arranging and directing funeral, memorial, or other services.

(2) "Embalmer" means a person engaged in the profession or business of disinfecting~~((;))~~ and preserving ~~((or preparing for disposal or transportation of dead human bodies))~~ human remains for transportation or final disposition.

(3) "Two-year college course" means the completion of sixty semester hours or ninety quarter hours of college credit, including the satisfactory completion of certain college courses, as set forth in this chapter.

(4) "Funeral establishment" means a place of business licensed in accordance with RCW 18.39.145, ~~((conducted at a specific street address or location, and devoted to the care and preparation for burial or disposal of dead human bodies))~~ that provides for any aspect of the care, shelter, transportation, embalming, preparation, and arrangements for the disposition of human remains and includes all areas of such ~~((business premises))~~ entity and all ~~((tools))~~ equipment, instruments, and supplies used in the care, shelter, transportation, preparation, and embalming of ((dead)) human ((bodies for burial or disposal)) remains.

(5) "Director" means the director of licensing.

(6) "Board" means the state board of funeral directors and embalmers created pursuant to RCW 18.39.173.

(7) "Prearrangement funeral service contract" means any contract under which, for a specified consideration, a funeral establishment promises, upon the death of the person named or implied in the contract, to furnish funeral merchandise or services.

(8) "Funeral merchandise or services" means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

(9) ~~((Qualified))~~ "Public depository" means a public depository defined by RCW 39.58.010((, a credit union as governed by chapter 31.12 RCW, a mutual savings bank as governed by Title 32 RCW, a savings and loan association as governed by Title 33 RCW, or a federal credit union or a federal savings and loan association organized, operated, and governed by any act of congress, in which prearrangement funeral service contract funds are deposited by any funeral establishment)) or a state or federally chartered credit union.

(10) "Licensee" means any person or entity holding a license, registration, endorsement, or permit under this chapter issued by the director.

Words used in this chapter importing the singular may be applied to the plural of the person or thing, words importing the plural may be applied to the singular, and words importing the masculine gender may be applied to the female.

Sec. 2. RCW 18.39.020 and 1987 c 150 s 30 are each amended to read as follows:

It is ~~((a violation of RCW 18.130.190))~~ unlawful for any person to act or hold himself or herself out as a funeral director or embalmer or discharge any of the duties of a funeral director or embalmer as defined in this chapter unless the person has a valid license under this chapter. It is unlawful for any person to ~~((open up))~~ establish, maintain, or operate a funeral establishment without a

valid establishment license (~~(and without having at all times at least one funeral director to supervise and direct the business conducted therefrom)~~).

Sec. 3. RCW 18.39.035 and 1996 c 217 s 1 are each amended to read as follows:

(1) An applicant for a license as a funeral director shall be at least eighteen years of age (~~(, of good moral character,)~~) and must have obtained an associate of arts degree in mortuary science or completed a course of not less than two years in an accredited college, and a one-year course of training under a licensed funeral director in this state. The applicant must also pass an examination in the funeral arts and an examination in the laws of this state pertaining to the handling, care, transportation, and disposition of human remains and the contents of this chapter.

(2) An applicant for a license as an embalmer must be at least eighteen years of age (~~(, of good moral character,)~~) and have obtained an associate of arts degree in mortuary science or completed a course of instruction in an accredited mortuary science college program and other college courses that total sixty semester hours or ninety quarter hours, completed a two-year course of training under a licensed embalmer in this state, and have passed an examination in the funeral sciences and an examination in the laws of this state pertaining to the handling, care, transportation, and disposition of human remains, and the contents of this chapter.

Sec. 4. RCW 18.39.045 and 1996 c 217 s 2 are each amended to read as follows:

(1) The two-year college course required for funeral directors under this chapter shall consist of sixty semester or ninety quarter hours of instruction at a school, college, or university accredited by the Northwest Association of Schools and Colleges or other accrediting association approved by the board, with a minimum 2.0 grade point, or a grade of C or better, in each subject required by subsection (2) of this section.

(2) Credits shall include one course in psychology, one in mathematics, two courses in English composition (~~(and rhetoric)~~), two courses in social science, and three courses selected from the following subjects: Behavioral sciences, public speaking, counseling, business administration and management, computer science, and first aid.

(3) This section does not apply to any person registered and in good standing as an apprentice funeral director or embalmer on or before January 1, 1982.

Sec. 5. RCW 18.39.070 and 1996 c 217 s 3 are each amended to read as follows:

(1) License examinations shall be held by the director at least once each year at a time and place to be designated by the director. Application to take an examination shall be filed with the director at least (~~(forty-five))~~ fifteen days prior to the examination date (~~(and)~~). The department shall give each applicant written notice of the time and place of the next examination (by written notice mailed to the applicant's address as given upon his or her application not later than fifteen days before the examination, but no person may take an examination unless his or her application has been on file for at least fifteen days before the examination). The applicant shall be deemed to have passed an examination if

the applicant attains a grade of not less than seventy-five percent in each examination. Any applicant who fails an examination shall be entitled, at no additional fee, to one retake of that examination.

(2) An applicant for a license (~~hereunder~~) may take his or her written examination after completing the educational requirements and before completing the course of training required under RCW 18.39.035.

Sec. 6. RCW 18.39.100 and 1996 c 217 s 4 are each amended to read as follows:

Every license issued (~~hereunder~~) shall specify the name of the person to whom it is issued and shall be displayed (~~conspicuously~~) in his or her place of business in an area accessible to the public. No license shall be assigned, and not more than one person shall carry on the profession or business of funeral directing or embalming under one license.

Sec. 7. RCW 18.39.120 and 1985 c 7 s 38 are each amended to read as follows:

Every person engaged in the business of funeral directing or embalming, who employs an (~~apprentice~~) intern to assist in the conduct of the business, shall register the name of each (~~apprentice~~) intern with the director at the beginning of the (~~apprenticeship~~) internship, and shall also forward notice of the termination of the (~~apprenticeship~~) internship. The registration shall be renewed annually and shall expire on the anniversary of the (~~apprentice's~~) intern's birthdate. Fees determined under RCW 43.24.086 shall be paid for the initial registration of the (~~apprentice~~) intern, and for each annual renewal.

NEW SECTION, Sec. 8. A new section is added to chapter 18.39 RCW to read as follows:

(1) An "academic intern" includes any student enrolled in an accredited college funeral service education program who is serving his or her three-month internship at a participating Washington state funeral establishment as required for graduation from the funeral service education program.

(2) Academic interns shall serve their internship in accordance with the guidelines established by the funeral service education program.

(3) Academic interns shall register with the director at the beginning of the academic internship on an application form prescribed by the board. The academic internship may not exceed a period of three months. No fee is required for registration as an academic intern.

Sec. 9. RCW 18.39.130 and 1996 c 217 s 5 are each amended to read as follows:

The board may recognize licenses issued to funeral directors or embalmers from other states and extend reciprocity to an applicant if the (~~applicant's qualifications are comparable to the requirements of this chapter~~) applicant furnishes satisfactory evidence that the applicant holds a valid license issued by another licensing authority recognized by the board as having qualifications for licensure that are substantially equivalent to those required by this chapter on the date of original licensure or licensure with the other licensing authority. Five years active experience as a licensee may be accepted to make up a deficit in the comparable education requirements.

~~(Upon)~~ The board may issue a funeral director's or embalmer's license upon:

(1) Presentation of the license ~~((and))~~ verification;

(2) Payment ~~((by the holder))~~ of a fee determined under RCW 43.24.086~~((, and))~~;

(3) Successful completion of the examination of the laws of this state pertaining to the handling, care, transportation, and disposition of human remains and the contents of this chapter~~((, the board may issue a funeral director's or embalmer's license under this chapter))~~.

Sec. 10. RCW 18.39.145 and 1986 c 259 s 61 and 1985 c 7 s 40 are each reenacted and amended to read as follows:

The board shall issue a funeral establishment license to any person, partnership, association, corporation, or other organization to operate a funeral establishment, at a specific ~~((locations))~~ location only, which has met the following requirements:

(1) The applicant has designated the name under which the funeral establishment will operate and has designated ~~((locations))~~ the location for which the ~~((general))~~ establishment license is to be issued;

(2) The applicant is licensed in this state as a funeral director ~~((and as an embalmer,))~~ or employs ~~((at least one person with both such qualifications or))~~ one licensed funeral director ~~((and one embalmer))~~ who will be in service at ~~((each))~~ the designated location;

(3) The applicant has filed an application with the director as required by this chapter and paid the required filing fee ~~((therefor as fixed by the director))~~ pursuant to RCW 43.24.086;

(4) As a condition of applying for a new funeral establishment license, the person or entity desiring to acquire such ownership or control shall be bound by all then existing prearrangement funeral service contracts.

(5) All duties requiring a license will be performed by licensed individuals or registered interns.

The board may deny an application for a funeral establishment license, or issue a conditional license, if disciplinary action has previously been taken against the applicant or the applicant's designated funeral director or embalmer. No funeral establishment license shall be transferable~~((, but))~~. An applicant may make application for more than one funeral establishment license so long as all of the requirements are met for each license. All funeral establishment licenses shall expire on ~~((June 30))~~ January 31st, or as otherwise determined by the director.

Sec. 11. RCW 18.39.150 and 1986 c 259 s 63 and 1985 c 7 s 41 are each reenacted and amended to read as follows:

Any licensed funeral director or embalmer whose license has lapsed shall reapply for a license and pay a fee as determined under RCW 43.24.086 before the license may be issued. Applications under this section shall be made within one year after the expiration of the previous license. If the application is not made within one year, the applicant shall be required to take an examination ~~((or submit other satisfactory proof of continued competency approved by the board))~~ and pay the license fee, ~~((as required by this chapter in the case of initial applications, together with all unpaid license fees and penalties))~~ which may include penalty fees.

Sec. 12. RCW 18.39.170 and 1937 c 108 s 16 are each amended to read as follows:

There shall be appointed by ~~((said))~~ the director ~~((of licensing))~~ an agent whose title shall be "inspector of funeral establishments, crematories, funeral directors, and embalmers of the state of Washington." No person shall be eligible for such appointment unless ~~((, at the time of his appointment,))~~ he ~~((shall have))~~ or she has been a ~~((duly))~~ licensed funeral director and embalmer in the state of Washington, with a minimum experience of not less than five consecutive years ~~((both as an embalmer and as a funeral director in the state of Washington. Said))~~.

(1) The inspector shall ((hold office during)):

(a) Serve at the pleasure of ((said)) the director ((of licensing, and the duties of said inspector shall be, and he is hereby authorized, to)); and

(b) At all times be under the supervision of the director.

(2) The inspector is authorized to:

(a) Enter the office, premises, establishment, or place of business, where funeral directing ~~((or)), embalming, or cremation~~ is carried on for the purpose of inspecting ~~((said office,)) the premises ~~((, establishment or place of business, and))~~;~~

(b) Inspect the licenses and registrations of ~~((embalmers, funeral directors and apprentices operating therein. Such inspector shall)) funeral directors, embalmers, funeral director interns, and embalmer interns;~~

(c) Serve and execute any papers or process issued by the director ~~((of licensing))~~ under authority of this chapter ~~((,))~~; and

(d) Perform any other duty or duties prescribed or ordered by the director ~~((of licensing. Said inspector shall at all times be under the supervision of said director of licensing and he may also assist the state health commissioner in enforcing the provisions of the law relating to health and such rules and regulations as shall have been made and promulgated by the state board of health))~~.

Sec. 13. RCW 18.39.173 and 1977 ex.s. c 93 s 8 are each amended to read as follows:

There is hereby established a state board of funeral directors and embalmers to be composed of five members, four professional and one public member, appointed by the governor in accordance with this section ~~((, one of whom shall be a public member. The three members of the state examining committee for funeral directors and embalmers, which was created pursuant to RCW 43.24.060, as of September 21, 1977 are hereby appointed as members of the board to serve for initial terms. The governor shall appoint two additional members of the board))~~. Each professional member of the board shall be licensed in this state as a funeral director and embalmer and a resident of the state of Washington for a period of at least five years next preceding appointment, during which time such member shall have been continuously engaged in the ~~((practice as a funeral director or embalmer as defined in this chapter. No person shall be eligible for appointment to the board of funeral directors and embalmers who is financially interested, directly or indirectly, in any embalming college, wholesale funeral supply business, or casket manufacturing business))~~ profession.

All members of the board of funeral directors and embalmers shall be appointed to serve for a term of five years, to expire on July 1st of the year of termination of their term, and until their successors have been appointed (~~and qualified: PROVIDED, That the governor is granted the power to fix the terms of office of the members of the board first appointed so that the term of office of not more than one member of the board shall terminate in any one year~~). In case of a vacancy occurring on the board, the governor shall appoint a qualified member for the remainder of the unexpired term of the vacant office. Any member of the board of funeral directors and embalmers who fails to properly discharge the duties of a member may be removed by the governor.

The board shall meet once annually to elect a (~~chairman~~) chair, (~~vice chairman~~) vice-chair, and secretary and take official board action on pending matters by majority vote of all the members of the board of funeral directors and embalmers and at other times when called by the director, the (~~chairman~~) chair, or a majority of the members. A majority of the members of (~~said~~) the board shall at all times constitute a quorum.

Sec. 14. RCW 18.39.175 and 1996 c 217 s 6 are each amended to read as follows:

Each member of the board of funeral directors and embalmers shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in connection with board duties in accordance with RCW 43.03.050 and 43.03.060.

The (~~state~~) board (~~of funeral directors and embalmers~~) shall have the following duties and responsibilities:

- (1) To be responsible for the preparation, conducting, and grading of examinations of applicants for funeral director and embalmer licenses;
- (2) To certify to the director the results of examinations of applicants and certify the applicant as having "passed" or "failed";
- (3) To make findings and recommendations to the director on any and all matters relating to the enforcement of this chapter;
- (4) To adopt(~~, promulgate,~~) and enforce reasonable rules. Rules regulating the cremation of human remains (~~and permit requirements~~) shall be adopted in consultation with the cemetery board;
- (5) To examine or audit or to direct the examination and audit of prearrangement funeral service trust fund records for compliance with this chapter and rules adopted by the board; and
- (6) To adopt rules establishing mandatory continuing education requirements to be met by persons applying for license renewal.

Sec. 15. RCW 18.39.181 and 1997 c 58 s 819 are each amended to read as follows:

The director shall have the following powers and duties:

- (1) To issue all licenses provided for under this chapter;
- (2) To renew licenses under this chapter;
- (3) To collect all fees prescribed and required under this chapter;
- (4) To 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 (~~or a residential or visitation order~~); (~~and~~)

(5) To keep (~~(general books of)~~) records of all official acts, proceedings, and transactions of the department of licensing (~~(while acting under this chapter)~~); and

(6) To employ the necessary staff to carry out the duties of this chapter.

Sec. 16. RCW 18.39.195 and 1979 ex.s. c 62 s 1 are each amended to read as follows:

(1) Every licensed funeral director, his or her agent, or his or her employee shall give, or cause to be given, to the person making funeral arrangements or arranging for shipment, transportation, or other disposition of a deceased person:

(a) If requested by (~~(telephone)~~) voice, data, text, electronic, or other similar transmission, accurate information regarding the retail prices of funeral merchandise and services offered for sale by that funeral director; and

(b) At the time such arrangements are completed or prior to the time of rendering the service, a written, itemized statement showing to the extent then known the price of merchandise and service that such person making such arrangements has selected, the price of supplemental items of service and merchandise, if any, and the estimated amount of each item for which the funeral service firm will advance money as an accommodation to the person making such funeral arrangements.

(2) No such funeral director, his or her agent, or his or her employee, shall bill or cause to be billed any item that is referred to as a "cash advanced" item unless the net amount paid for such item by the funeral director is the same amount as is billed to such funeral director.

Sec. 17. RCW 18.39.215 and 2003 c 53 s 127 are each amended to read as follows:

(1)(a) No licensed embalmer shall embalm (~~(a deceased body)~~) human remains without first having obtained authorization from (~~(a family member or representative of the deceased)~~) the individual or individuals that have the right to control the disposition under RCW 68.50.160.

(b) (~~(Notwithstanding the above prohibition a licensee may embalm without such authority when after due diligence no authorized person can be contacted and embalming is in accordance with legal or accepted standards of care in the community, or the licensee has good reason to believe that the family wishes embalming. If embalming is performed under these circumstances, the licensee shall not be deemed to be in violation of the provisions of this subsection.~~)

(~~e~~) The funeral director or embalmer shall inform the family member or representative of the deceased that embalming is not required by state law, except that embalming is required under certain conditions as determined by rule by the state board of health.

(2)(a) Any (~~(person)~~) licensee authorized to dispose of human remains shall refrigerate or embalm the (~~(body within twenty-four hours)~~) human remains upon receipt of the (~~(body, unless disposition of the body has been made)~~) human remains. However, subsection (1) of this section and RCW 68.50.108 shall be complied with before (~~(a body is)~~) human remains are embalmed. Upon written authorization of the proper state or local authority, the provisions of this subsection may be waived for a specified period of time.

(b) Violation of this subsection is a gross misdemeanor.

Sec. 18. RCW 18.39.217 and 2003 c 53 s 128 are each amended to read as follows:

(1) A ~~((permit))~~ license or endorsement issued by the board or under chapter 68.05 RCW is required in order to operate a crematory or conduct a cremation.

(2) Conducting a cremation without a ~~((permit))~~ license or endorsement is a misdemeanor. Each such cremation is a separate violation.

(3) Crematories owned or operated by or located on property licensed as a funeral establishment shall be regulated by the board ~~((of funeral directors and embalmers))~~. Crematories not affiliated with a funeral establishment shall be regulated by the cemetery board.

Sec. 19. RCW 18.39.220 and 2003 c 53 s 129 are each amended to read as follows:

(1) Every ~~((funeral director or embalmer))~~ licensee who pays, or causes to be paid, directly or indirectly, money, or other valuable consideration, for the securing of business ~~((, and every person who accepts money, or other valuable consideration, directly or indirectly, from a funeral director or from an embalmer, in order that the latter may obtain business))~~ is guilty of a gross misdemeanor.

(2) Every person who sells, or offers for sale, any share, certificate, or interest in the business of any funeral director or embalmer, or in any corporation, firm, or association owning or operating a funeral establishment, which promises ~~((or purports))~~ to give to the purchaser a right to the services of the funeral director, embalmer, or corporation, firm, or association at a charge or cost less than that offered or given to the public, is guilty of a gross misdemeanor.

Sec. 20. RCW 18.39.231 and 2003 c 53 s 130 are each amended to read as follows:

(1) A ~~((funeral director or any person under the supervision of a funeral director))~~ licensee shall not, in conjunction with any professional services performed for compensation under this chapter, provide financial or investment advice to any person other than a family member, represent any person in a real estate transaction, or act as an agent under a power of attorney for any person. However, this section shall not be deemed to prohibit a funeral establishment from entering into prearrangement funeral service contracts in accordance with this chapter or to prohibit a funeral director from providing advice about government or insurance benefits.

(2) A violation of this section is a gross misdemeanor and is grounds for disciplinary action.

(3) The board shall adopt ~~((such))~~ rules as the board deems ~~((reasonably))~~ necessary to prevent unethical financial dealings between ~~((funeral directors))~~ licensees and their clients.

Sec. 21. RCW 18.39.250 and 1996 c 217 s 8 are each amended to read as follows:

(1) Any funeral establishment selling funeral merchandise or services by prearrangement funeral service contract and accepting moneys therefore shall establish and maintain one or more prearrangement funeral service trusts under Washington state law with two or more designated trustees, for the benefit of the beneficiary of the prearrangement funeral service contract ~~((or))~~. Funeral

establishments may join with one or more other Washington state licensed funeral establishments in a "master trust" provided that each member of the "master trust" shall comply individually with the requirements of this chapter.

(2) Up to ten percent of the cash purchase price of each prearrangement funeral service contract, excluding sales tax, may be retained by the funeral establishment unless otherwise provided in this chapter. If the prearrangement funeral service contract is canceled within thirty calendar days of its signing, then the purchaser shall receive a full refund of all moneys paid under the contract.

(3) At least ninety percent of the cash purchase price of each prearrangement funeral service contract, paid in advance, excluding sales tax, shall be placed in the trust established or utilized by the funeral establishment. Deposits to the prearrangement funeral service trust shall be made not later than the twentieth day of the month following receipt of each payment made on the last ninety percent of each prearrangement funeral service contract, excluding sales tax.

(4) All prearrangement funeral service trust moneys shall be deposited in an insured account in a (~~qualified~~) public depository or shall be invested in instruments issued or insured by any agency of the federal government (~~if these securities are held in a public depository~~). The account or investments shall be designated as the prearrangement funeral service trust of the funeral establishment for the benefit of the beneficiaries named in the prearrangement funeral service contracts. The prearrangement funeral service trust shall not be considered as, (~~nor shall it be~~) or used as, an asset of the funeral establishment.

(5) After deduction of reasonable fees for the administration of the trust, taxes paid or withheld, or other expenses of the trust, all interest, dividends, (~~increases,~~) or (~~accretions of whatever nature~~) growth earned by a trust (~~shall be kept unimpaired and~~) shall become a part of the trust. Adequate records shall be maintained to allocate the share of principal and interest to each contract. Fees deducted for the administration of the trust shall not exceed one percent per year of the amount in trust. In no instance shall the administrative charges deducted from the prearrangement funeral service trust reduce, diminish, or in any other way lessen the value of the trust so that the services or merchandise provided for under the contract are reduced, diminished, or in any other way lessened.

(6) Except as otherwise provided in this chapter, the trustees of a prearrangement funeral service trust shall permit withdrawal of all funds deposited under a prearrangement funeral service contract, plus accruals thereon, under the following circumstances and conditions:

(a) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been furnished and delivered in accordance therewith; or

(b) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been canceled in accordance with its terms.

(7) Subsequent to the thirty calendar day cancellation period provided for in this chapter, any purchaser or beneficiary who has a revocable prearrangement funeral service contract has the right to demand a refund of the amount in trust.

(8) Prearrangement funeral service contracts which have or should have an account in a prearrangement funeral service trust may be terminated by the board if the funeral establishment goes out of business, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors, has its prearrangement funeral service certificate of registration revoked, or for any other reason is unable to fulfill the obligations under the contract. In such event, or upon demand by the purchaser or beneficiary of the prearrangement funeral service contract, the funeral establishment shall refund to the purchaser or beneficiary all moneys deposited in the trust and allocated to the contract unless otherwise ordered by a court of competent jurisdiction. The purchaser or beneficiary may, in lieu of a refund, elect to transfer the prearrangement funeral service contract and all amounts in trust to another funeral establishment licensed under this chapter which will agree, by endorsement to the contract, to be bound by the contract and to provide the funeral merchandise or services. Election of this option shall not relieve the defaulting funeral establishment of its obligation to the purchaser or beneficiary for any amounts required to be, but not placed, in trust.

(9) Prior to the sale or transfer of ownership or control of any funeral establishment which has contracted for prearrangement funeral service contracts, any person, corporation, or other legal entity desiring to acquire such ownership or control shall apply to the director in accordance with RCW 18.39.145. Persons and business entities selling or relinquishing, and persons and business entities purchasing or acquiring ownership or control of such funeral establishments shall each verify and attest to a report showing the status of the prearrangement funeral service trust or trusts on the date of the sale. This report shall be on a form prescribed by the board and shall be considered part of the application for a funeral establishment license. In the event of failure to comply with this subsection, the funeral establishment shall be deemed to have gone out of business and the provisions of subsection (8) of this section shall apply.

(10) Prearrangement funeral service trust moneys shall not be used, directly or indirectly, for the benefit of the funeral establishment or any director, officer, agent, or employee of the funeral establishment including, but not limited to, any encumbrance, pledge, or other use of prearrangement funeral service trust moneys as collateral or other security.

(11)(a) If, at the time of the signing of the prearrangement funeral service contract, the beneficiary of the trust is a recipient of public assistance as defined in RCW 74.04.005, or reasonably anticipates being so defined, the contract may provide that the trust will be irrevocable. If after the contract is entered into, the beneficiary becomes eligible or seeks to become eligible for public assistance under Title 74 RCW, the contract may provide for an election by the beneficiary, or by the purchaser on behalf of the beneficiary, to make the trust irrevocable thereafter in order to become or remain eligible for such assistance.

(b) The department of social and health services shall notify the trustee of any prearrangement service trust that the department has a claim on the estate of a beneficiary for long-term care services. Such notice shall be renewed at least every three years. The trustees upon becoming aware of the death of a beneficiary shall give notice to the department of social and health services, office of financial recovery, who shall file any claim there may be within thirty days of the notice.

(12) Every prearrangement funeral service contract financed through a prearrangement funeral service trust shall contain language which:

(a) Informs the purchaser of the prearrangement funeral service trust and the amount to be deposited in the trust;

(b) Indicates if the contract is revocable or not in accordance with subsection (11) of this section;

(c) Specifies that a full refund of all moneys paid on the contract will be made if the contract is canceled within thirty calendar days of its signing;

(d) Specifies that, in the case of cancellation by a purchaser or beneficiary eligible to cancel under the contract or under this chapter, up to ten percent of the contract amount may be retained by the seller to cover the necessary expenses of selling and setting up the contract;

(e) Identifies the trust to be used and contains information as to how the trustees may be contacted.

Sec. 22. RCW 18.39.255 and 1995 1st sp.s. c 18 s 63 are each amended to read as follows:

Prearranged funeral service contracts funded through insurance shall contain language which:

(1) States the amount of insurance;

(2) Informs the purchaser of the name and address of the insurance company through which the insurance will be provided(~~(, the policy number,)~~) and the name of the beneficiary;

(3) Informs the purchaser that amounts paid for insurance may not be refundable;

(4) Informs that any funds from the policy not used for services may be subject to a claim for reimbursement for long-term care services paid for by the state; and

(5) States that for purposes of the contract, the procedures in RCW 18.39.250(11)(b) shall control such recoupment.

Sec. 23. RCW 18.39.345 and 1989 c 390 s 10 are each amended to read as follows:

(1) The board shall examine a prearrangement funeral service trust whenever it deems it necessary, but at least once every three years, or whenever the licensee fails after reasonable notice from the board to file the reports required by this chapter or the board.

(2) The expense of the prearrangement funeral service trust examination shall be paid by the licensee and shall not be deducted from the earnings of the trust. (~~(In the case of a "master trust," the expense of the prearrangement funeral service trust examination shall be shared jointly by all funeral establishments participating in such trust.)~~)

(3) Such examination shall be conducted in private in the principal office of the licensee and the records relating to prearrangement funeral service contracts and prearrangement funeral service trusts shall be available at such office.

Sec. 24. RCW 18.39.410 and 2002 c 86 s 221 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:

(1) Solicitation of ~~((dead))~~ human ~~((bodies))~~ 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 ~~((a dead))~~ human ~~((body))~~ 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 ~~((dead))~~ human ~~((bodies))~~ 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 ~~((a dead))~~ human ~~((body))~~ 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 ~~((dead))~~ human ~~((body))~~ 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 ~~((dead))~~ human ~~((bodies))~~ remains;

(6) Refusing to promptly surrender the custody of ~~((a dead))~~ human ~~((body))~~ 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;

(9) Knowingly concealing information concerning a violation of this title.

Sec. 25. RCW 18.39.800 and 1996 c 217 s 9 are each amended to read as follows:

The funeral directors and embalmers account is created in the state treasury. All fees received by the department for licenses, registrations, renewals, examinations, and audits shall be forwarded to the state treasurer who shall credit the money to the account. All fines and civil penalties ordered by the superior court or fines ordered pursuant to RCW 18.130.160(8) against holders of licenses or registrations issued under the provisions of this chapter shall be paid to the account. All expenses incurred in carrying out the licensing and registration activities of the department and the state funeral directors and embalmers board under this chapter shall be paid from the account as authorized

by legislative appropriation. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium. All earnings of investments of balances in the account shall be credited to the general fund. ~~((Any fund balance remaining in the health professions account attributable to the funeral director and embalmer professions as of July 1, 1993, shall be transferred to the funeral directors and embalmers account.))~~

NEW SECTION. Sec. 26. A new section is added to chapter 18.39 RCW to read as follows:

(1) The director shall issue a certificate of removal registration to a funeral establishment licensed in another state contiguous to Washington, with laws substantially similar to the provisions of this section, for the limited purpose of removing human remains from Washington prior to submitting a certificate of death. Licensed funeral establishments wishing to participate must: Apply to the department of licensing for a certificate of removal registration, on a form provided by the department, and pay the required application fee, as set by the director.

(2) For purposes of this section, each branch of a registrant's funeral establishment is a separate establishment and must be registered as a fixed place of business.

(3) Certificates of death are governed by RCW 70.58.160.

(4) Notices of removal and disposition permits are governed by RCW 70.58.230.

(5) The conduct of funeral directors, embalmers, or any other person employed by or acting on behalf of a removal registrant is the direct responsibility of the holder of the certificate of removal registration.

(6) The board may impose sanctions upon the holder of a certificate of removal registration if the registrant is found to be in violation of any death care statute or rule.

(7) Certificates of removal registration expire January 31st, or as otherwise determined by the director.

Sec. 27. RCW 68.04.020 and 1977 c 47 s 1 are each amended to read as follows:

"Human remains" or "remains" means the body of a deceased person, ~~((and))~~ includes the body in any stage of decomposition ~~((except)), and includes~~ cremated human remains.

Sec. 28. RCW 68.04.030 and 1977 c 47 s 2 are each amended to read as follows:

"Cremated human remains" means ~~((a human body after))~~ the end products of cremation ((in a crematory)).

Sec. 29. RCW 68.04.040 and 1990 c 92 s 7 are each amended to read as follows:

"Cemetery" means: (1) Any one, or a combination of more than one, of the following, in a place used, or intended to be used~~((:))~~ for the placement of human remains and dedicated, for cemetery purposes:

- (a) A burial park, for earth interments.
- (b) A mausoleum, for crypt interments.
- (c) A columbarium, for permanent ~~((inerary))~~ niche interments; or

(2) For the purposes of chapter 68.60 RCW only, "cemetery" means any burial site, burial grounds, or place where five or more human remains are buried. Unless a cemetery is designated as a parcel of land identifiable and unique as a cemetery within the records of the county assessor, a cemetery's boundaries shall be a minimum of ten feet in any direction from any burials therein.

Sec. 30. RCW 68.04.070 and 1943 c 247 s 7 are each amended to read as follows:

"Crematory" means a building or ~~((structure containing one or more retorts for the reduction of bodies of deceased persons to cremated))~~ area of a building that houses one or more cremation chambers, to be used for the cremation of human remains.

Sec. 31. RCW 68.04.080 and 1943 c 247 s 8 are each amended to read as follows:

"Columbarium" means a structure, room, or other space in a building or structure containing niches for permanent ~~((inurnment))~~ placement of cremated human remains in a place used, or intended to be used, and dedicated, for cemetery purposes.

Sec. 32. RCW 68.04.100 and 1943 c 247 s 10 are each amended to read as follows:

"Interment" means the ~~((disposition))~~ placement of human remains ~~((by cremation and inurnment, entombment, or burial in a place used, or intended to be used, and dedicated, for cemetery purposes))~~ in a cemetery.

Sec. 33. RCW 68.04.110 and 1987 c 331 s 1 are each amended to read as follows:

"Cremation" means the reduction of ~~((the body of a deceased person to cremated))~~ human remains to bone fragments in a crematory ~~((in such a manner that the largest dimension of any remaining particle does not exceed five millimeters: PROVIDED, That if a person entitled to possession of such remains under the provisions of RCW 68.50.270 is going to place the cremated remains in a cemetery, mausoleum, columbarium, or building devoted exclusively to religious purposes, the five millimeter dimension requirement shall not apply))~~ by means of incineration.

Sec. 34. RCW 68.04.120 and 1943 c 247 s 12 are each amended to read as follows:

"Inurnment" means placing cremated human remains in ~~((an urn or vault and placing it in a niche))~~ a cemetery.

Sec. 35. RCW 68.04.130 and 1943 c 247 s 13 are each amended to read as follows:

"Entombment" means the placement of human remains in a crypt ~~((or vault))~~.

Sec. 36. RCW 68.04.160 and 1979 c 21 s 3 are each amended to read as follows:

"Crypt" means a space in a mausoleum ~~((of sufficient size, used or intended to be used, to entomb uncremated))~~ for the placement of human remains.

Sec. 37. RCW 68.04.165 and 1979 c 21 s 4 are each amended to read as follows:

~~((“Vault”, “lawn crypt” or “liner”))~~ “Outer burial container” means any container which is buried in the ground ~~((and into which))~~ for the placement of human remains ((are placed)) in the burial process. Outer burial containers include, but are not limited to vaults, lawn crypts, and liners.

Sec. 38. RCW 68.04.170 and 1943 c 247 s 17 are each amended to read as follows:

“Niche” means a space in a columbarium ~~((or urn garden used, or intended to be used,))~~ for ~~((inurnment))~~ placement of cremated human remains.

Sec. 39. RCW 68.04.190 and 1943 c 247 s 19 are each amended to read as follows:

“Cemetery authority” ~~((includes cemetery corporation, association, corporation sole, or other person owning or controlling cemetery lands or property))~~ means an entity that has obtained a certificate of authority to operate a cemetery from the cemetery board, or any other entity that operates a cemetery that is not under the jurisdiction of the cemetery board.

Sec. 40. RCW 68.04.210 and 1943 c 247 s 21 are each amended to read as follows:

“Cemetery business” ~~((, “cemetery businesses”, and “cemetery purposes” are used interchangeably and mean any and all business and purposes requisite to, necessary for, or incident to,))~~ includes establishing, maintaining, operating, and improving ~~((, or conducting))~~ a cemetery ~~((, interring))~~ for the placement of human remains, and the care ~~((,))~~ and preservation ~~((, and embellishment))~~ of the cemetery property.

Sec. 41. RCW 68.04.230 and 1943 c 247 s 23 are each amended to read as follows:

“Lot” ~~((,))~~ or “plot” ~~((, or “interment plot”))~~ means space in a cemetery, used or intended to be used for the interment of human remains. ~~((Such terms include and apply to one or more than one adjoining graves, one or more than one adjoining crypts or vaults, or one or more than one adjoining niches.))~~

NEW SECTION. **Sec. 42.** A new section is added to chapter 68.04 RCW to read as follows:

“Interment right” means the right to inter human remains in a particular space in a cemetery.

NEW SECTION. **Sec. 43.** A new section is added to chapter 68.04 RCW to read as follows:

“Scattering garden” means a designated area in a cemetery for the scattering of cremated human remains.

NEW SECTION. **Sec. 44.** A new section is added to chapter 68.04 RCW to read as follows:

“Scattering” means the removal of cremated human remains from their container for the purpose of scattering the cremated human remains in any lawful manner.

Sec. 45. RCW 68.04.240 and 1943 c 247 s 24 are each amended to read as follows:

~~((“Plot owner”, “owner”, or “lot proprietor”))~~ “Owner of interment rights” means any person ~~((in whose name an interment plot stands of record as~~

~~owner,))~~ who is listed as the owner of record of a right or rights of interment in the office of a cemetery authority.

Sec. 46. RCW 68.05.010 and 1953 c 290 s 26 are each amended to read as follows:

The definitions in chapter 68.04 RCW are applicable to this chapter and govern the meaning of terms used (~~herein~~) in this chapter, except as otherwise provided (~~(expressly or by necessary implication)~~).

Sec. 47. RCW 68.05.030 and 1987 c 331 s 4 are each amended to read as follows:

The terms "endowment care" or "endowed care" used in this chapter shall include special care(~~(-care, or maintenance)~~) funds and all funds held for or represented as maintenance funds.

Sec. 48. RCW 68.05.040 and 1987 c 331 s 5 are each amended to read as follows:

A cemetery board is created to consist of (~~six~~) five members to be appointed by the governor. Appointments shall be for four-year terms. Each member shall hold office until the expiration of the term for which the member is appointed or until a successor has been appointed and qualified.

Sec. 49. RCW 68.05.050 and 1979 c 21 s 5 are each amended to read as follows:

(~~Three~~) Four members of the board shall (~~be persons who have had experience in this state in the active administrative management of a cemetery authority or as a member of (the) a cemetery's board of directors (thereof).~~) (~~Two members of the board shall be persons who have legal, accounting, or other professional experience which relates to the duties of the board. The sixth~~) One member of the board shall represent the general public and shall not have a financial interest in the cemetery business.

Sec. 50. RCW 68.05.080 and 1987 c 331 s 6 are each amended to read as follows:

The board shall meet at least (~~twice~~) once a year in order to conduct its business (~~and~~). The board may meet at (~~such~~) other designated times as (~~it may designate~~) determined by the chair, the director, or a majority of board members (~~may call a meeting~~). The board may meet at any place within this state.

Sec. 51. RCW 68.05.090 and 1987 c 331 s 7 are each amended to read as follows:

The board shall enforce and administer the provisions of chapters 68.04 through 68.50 RCW, subject to provisions of RCW (~~(68.05.280)~~) 68.05.400. The board may adopt and amend bylaws establishing its organization and method of operation. (~~In addition to enforcement of this chapter the board shall enforce chapters 68.20, 68.24, 68.28, 68.32, 68.36, 68.40, 68.44, 68.46, and 68.50 RCW.~~) The board may refer such evidence as may be available concerning violations of chapters (~~(68.20, 68.24, 68.28, 68.32, 68.36, 68.40, 68.44, 68.46, and)~~) 68.04 through 68.50 RCW to the attorney general or the proper prosecuting attorney, who may in his or her discretion, with or without such a reference, in addition to any other action the board might commence, bring an action (~~in the name of the board~~) against any person to restrain (~~and~~)

or prevent the doing of any act or practice prohibited or declared unlawful in chapters ~~((68.20, 68.24, 68.28, 68.32, 68.36, 68.40, 68.44, 68.46, or))~~ 68.04 through 68.50 RCW and shall have standing to seek enforcement of said provisions in the superior court of the state of Washington for the county in which the principal office of the cemetery authority is located.

Sec. 52. RCW 68.05.100 and 1993 c 43 s 3 are each amended to read as follows:

The board may establish necessary rules ~~((and regulations))~~ for the enforcement of this title and the laws subject to its jurisdiction ~~((and))~~. The board shall prescribe the ~~((form of statements))~~ application forms and reports provided for in this title. Rules regulating the cremation of human remains and establishing ~~((permit))~~ requirements shall be adopted in consultation with the state board of funeral directors and embalmers.

Sec. 53. RCW 68.05.105 and 2002 c 86 s 316 are each amended to read as follows:

In addition to the authority in RCW 18.235.030, the board has the following authority:

- (1) To adopt, amend, and rescind ~~((such))~~ rules ~~((as are deemed))~~ necessary to carry out this title; and
- (2) To adopt standards of professional conduct or practice.

Sec. 54. RCW 68.05.115 and 1987 c 331 s 11 are each amended to read as follows:

Prior to the sale or transfer of ownership or control of any cemetery authority or the creation of a new cemetery, any person ~~((corporation))~~ or ~~((other legal))~~ entity desiring to acquire such ownership or control or ~~((desiring))~~ to create a new cemetery shall apply in writing to the board for a new certificate of authority to operate a cemetery ~~((and shall comply with all provisions of Title 68 RCW relating to applications for, and the basis for granting, an original certificate of authority))~~. The board shall ~~((, in addition,))~~ enter any order deemed necessary for the protection of all endowment care funds and/or prearrangement trust fund during such transfer. As a condition of applying for a new certificate of authority, the entity desiring to acquire such ownership or control must agree to be bound by all then existing prearrangement contracts ~~((and the board shall enter that agreement as a condition of the transfer))~~. Persons and business entities selling and persons and business entities purchasing ownership or control of a cemetery authority shall each verify and attest to an endowment care fund report and/or a prearrangement trust fund report showing the status of such funds on the date of the sale on a written report form prescribed by the board. Such reports shall be considered part of the application for authority to operate. Failure to comply with this section shall be a gross misdemeanor and any sale or transfer in violation of this section shall be void.

Sec. 55. RCW 68.05.150 and 1979 c 21 s 8 are each amended to read as follows:

In making such examination the board:

- (1) Shall have free access to the books and records relating to the endowment care funds ~~((, their collection and investment, and the number of~~

~~graves, crypts, and niches under endowment care)) and prearrangement trust funds;~~

(2) Shall inspect and examine the endowment care funds and prearrangement trust funds to determine their condition and the ~~((existence))~~ status of the investments; and

(3) Shall ~~((ascertain if))~~ verify that the cemetery authority has complied with all the laws applicable to endowment care funds(;

~~(4) Shall have free access to all records required to be maintained pursuant to this chapter and to chapter 68.46 RCW with respect to prearrangement merchandise or services, unconstructed crypts or niches, or undeveloped graves; and~~

~~(5) Shall ascertain if the cemetery authority has complied with the laws applicable to)) and prearrangement trust funds.~~

Sec. 56. RCW 68.05.170 and 2002 c 86 s 317 are each amended to read as follows:

(1) Whenever the board finds, after notice and hearing, that any endowment care funds have been invested in violation of this title, it may by written order mailed to the person or body in charge of the fund require the reinvestment of the funds in conformity with this title within the period specified by it which shall be not more than six months. Such period may be extended by the board in its discretion.

(2) The board may bring actions for the preservation and protection of endowment care funds in the superior court of the county in which the cemetery is located ~~((and))~~. The court shall appoint substitute trustees and make any other order which may be necessary for the preservation, protection, and recovery of endowment care funds, whenever a cemetery authority or the trustees of its fund have:

(a) Transferred or attempted to transfer any property to, or made any loan from, the endowment care funds for the benefit of the cemetery authority or any director, officer, agent or employee of the cemetery authority or trustee of any endowment care funds; or,

(b) Failed to reinvest endowment care funds in accordance with a board order issued under subsection (1) of this section; or,

(c) Invested endowment care funds in violation of this title; or,

(d) Taken action or failed to take action to preserve and protect the endowment care funds~~((evidencing a lack of concern therefor))~~; or,

(e) Become financially irresponsible or transferred control of the cemetery authority to any person who, or business entity which, is financially irresponsible; or,

(f) Is in danger of becoming insolvent or has gone into bankruptcy or receivership; or,

(g) Taken any action in violation of Title 68 RCW or failed to take action required by Title 68 RCW or has failed to comply with lawful rules and orders of the board.

(3) Whenever the board or its representative has reason to believe that endowment care funds or prearrangement trust funds are in danger of being lost or ~~((dissipated))~~ diminished during the time required for notice and hearing, it may immediately impound or seize documents, financial instruments, or other trust fund assets, or take other actions deemed necessary under the

circumstances for the preservation and protection of endowment care funds or prearrangement trust funds, including, but not limited to, immediate substitutions of trustees.

Sec. 57. RCW 68.05.173 and 1987 c 331 s 24 are each amended to read as follows:

Upon violation of any of the provisions of this title, the board may revoke or suspend the certificate of authority ~~((and may revoke, suspend, or terminate the prearrangement sales license of any cemetery authority))~~ or any other license issued by the board.

Sec. 58. RCW 68.05.195 and 1987 c 331 s 15 are each amended to read as follows:

Any person other than persons defined in RCW 68.50.160 who buries or ~~((otherwise disposes of))~~ scatters cremated remains by land, ~~((by))~~ air, or ~~((by))~~ sea or performs any other disposition of cremated human remains outside of a cemetery shall have a permit ~~((or endorsement))~~ issued in accordance with RCW 68.05.100 and shall be subject to that section.

Sec. 59. RCW 68.05.210 and 1969 ex.s. c 99 s 2 are each amended to read as follows:

The board may require such proof as it deems advisable concerning the compliance by such applicant to all the laws, rules, regulations, ordinances and orders applicable to it. The board shall also require proof that the applicant and its officers and directors are financially responsible, ~~((trustworthy and have good personal and business reputations,))~~ in order that only cemeteries of permanent benefit to the community in which they are located will be established in this state.

Sec. 60. RCW 68.05.215 and 1987 c 331 s 17 are each amended to read as follows:

The regulatory charges for cemetery certificates at all periods of the year are the same as provided in this chapter. All regulatory charges are payable at the time of the filing of the application and in advance of the issuance of the certificates. All certificates shall be issued for the year and shall expire at midnight, the thirty-first day of January of each year, or at whatever time during any year that ownership or control of any cemetery authority is transferred or sold. Cemetery certificates shall not be transferable. ~~((Failure to pay the regulatory charge fixed by the director prior to the first day of February for any year automatically shall suspend the certificate of authority. Such certificate may be restored upon payment to the department of the prescribed charges.))~~

Sec. 61. RCW 68.05.225 and 1987 c 331 s 18 are each amended to read as follows:

All prearrangement sales licenses issued under this chapter shall be issued for the year and shall expire at midnight, the thirty-first day of January of each year, or at whatever time during any year that ownership or control of any cemetery authority is transferred or sold.

The director, in accordance with RCW 43.24.086, shall set and the department shall collect in advance the fees required for licensing.

~~((Failure to pay the regulatory charge fixed by the director before the first day of February for any year shall automatically suspend the license. Such~~

~~license may be restored upon payment to the department of the prescribed charges:))~~

Sec. 62. RCW 68.05.235 and 2002 c 86 s 318 are each amended to read as follows:

(1) Each authorized cemetery authority shall, within ninety days after the close of its accounting year, file with the board ~~((upon the board's request a true and accurate statement of its financial condition, transactions, and affairs))~~ an endowment care trust fund report and a prearrangement trust fund report for the preceding year. The ~~((statement))~~ reports shall be on such forms and shall contain such information as required by this chapter and by the board.

(2) The failure to file a ~~((statement))~~ report as required under subsection (1) of this section constitutes unprofessional conduct for which the board may take disciplinary action against the prearrangement sales license of the cemetery authority. In addition, the board may take disciplinary action against any other license held by the cemetery authority.

Sec. 63. RCW 68.05.240 and 1953 c 290 s 52 are each amended to read as follows:

It shall be a misdemeanor for any cemetery authority to make any interment without a valid, ~~((subsisting, and))~~ unsuspended certificate of authority. Each interment shall be a separate violation.

Sec. 64. RCW 68.05.245 and 1987 c 331 s 20 are each amended to read as follows:

All crematory permits or endorsements issued under this chapter shall be issued for the year and shall expire at midnight, the thirty-first day of January of each year, or at whatever time during any year that ownership or control of any cemetery authority which operates such crematory is transferred or sold.

The director shall set and the department shall collect in advance the fees required for licensing.

~~((Failure to pay the regulatory charge fixed by the director before the first day of February for any year shall automatically suspend the permit or endorsement. Such permit or endorsement may be restored upon payment to the department of the prescribed charges:))~~

Sec. 65. RCW 68.05.254 and 1987 c 331 s 21 are each amended to read as follows:

(1) The board shall examine the endowment care and prearrangement trust fund or funds of a cemetery authority:

(a) Whenever it deems necessary, but at least once every three years after the original examination except where the cemetery authority is either required by the board to, or voluntarily files an annual financial report for the fund certified by a certified public accountant or a licensed public accountant in accordance with generally accepted auditing standards;

(b) One year following the issuance of a new certificate of authority;

(c) Whenever the cemetery authority in charge of endowment care or prearrangement trust fund or funds fails after reasonable notice from the board to file the reports required by this chapter; or

(d) Whenever it is requested by verified petition signed by twenty-five lot owners alleging that the endowment care funds are not in compliance with this title, or whenever it is requested by verified petition signed by twenty-five

purchasers or beneficiaries of prearrangement merchandise or services alleging that the prearrangement trust funds are not in compliance with this title, in either of which cases, the examination shall be at the expense of the petitioners.

(2) The expense of the endowment care and prearrangement trust fund examination as provided in subsection (1)(a) and (b) of this section shall be paid by the cemetery authority. Such examination shall be privately conducted in the principal office of the cemetery authority.

(3) The requirements that examinations be conducted once every three years and that they be conducted in the principal office of the cemetery authority do not apply to any endowment care or prearrangement fund that is less than twenty-five thousand dollars. The board shall, at its discretion, decide when and where the examinations shall take place.

(4) Examination expenses incurred in conjunction with a transfer of ownership of a cemetery must be paid by the selling entity.

(5) All examination expense moneys collected by the department must be paid to the cemetery account created in RCW 68.05.285.

Sec. 66. RCW 68.05.259 and 2002 c 86 s 319 are each amended to read as follows:

If any cemetery authority refuses to pay any examination expenses within thirty days of completion of the examination or refuses to pay certain examination expenses in advance as required by the department for cause, the board may take disciplinary action against any existing certificate of authority. ~~((Examination expenses incurred in conjunction with a transfer of ownership of a cemetery shall be paid by the selling entity. All examination expense moneys collected by the department shall be paid to the program account.))~~

Sec. 67. RCW 68.05.285 and 1953 c 290 s 29 are each amended to read as follows:

~~((There shall be, in the office of)) The cemetery account is created in the custody of the state treasurer((, a fund to be known and designated as the "cemetery fund." All regulatory fees or other moneys to be paid under this chapter, unless provision be made otherwise, shall be paid at least once a month to the state treasurer to be credited to the cemetery fund. All moneys credited to the cemetery fund shall be used, when appropriated by the legislature, by the cemetery board to carry out the provisions of this chapter)). All moneys received under this chapter must be deposited in the account. Expenditures from the account may be used only for the purposes of this chapter. Only the cemetery board may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.~~

Sec. 68. RCW 68.05.290 and 1979 c 21 s 12 are each amended to read as follows:

Members of the board shall be immune from suit in any action, civil or criminal, based upon any official acts performed in good faith as members of ~~((such))~~ the board((, and)). The state shall defend, indemnify, and hold the members of the board harmless from all claims or suits arising in any manner from such acts. Expenses incurred by the state under this section shall be paid from the general fund.

Sec. 69. RCW 68.05.330 and 2002 c 86 s 323 are each amended to read as follows:

Unless specified otherwise in this title, any person who violates or aids or abets any person in the violation of any of the provisions of this title shall be guilty of a class C felony punishable under chapter 9A.20 RCW. A violation shall constitute an unfair practice under chapter 19.86 RCW and shall be grounds for disciplinary action against the certificate of authority or any other license issued by the board under this chapter and chapter 18.235 RCW (~~or disciplinary action against the prearrangement sales license under this chapter and chapter 18.235 RCW~~). Retail installment transactions under this chapter shall be governed by chapter 63.14 RCW. The provisions of this chapter shall (~~be cumulative and nonexclusive and shall~~) not affect any other remedy available at law.

Sec. 70. RCW 68.05.340 and 2002 c 86 s 324 are each amended to read as follows:

Whenever the board or its authorized representative determines that a cemetery authority is in violation of this title (~~(other than engaging in unlicensed activity,)~~) or that the continuation of acts or practices of the cemetery authority is likely to cause insolvency or substantial (~~(dissipation)~~) loss of assets or earnings of the cemetery authority's endowment care or prearrangement trust fund (~~(or to otherwise seriously prejudice the interests of the purchasers or beneficiaries of prearrangement contracts)~~), the board, or its authorized representative, may issue a temporary order requiring the cemetery authority to cease and desist from the violation or practice. The order shall become effective upon service on the cemetery authority (~~and~~). The order shall remain effective unless set aside, limited, or suspended by a court in proceedings under RCW 68.05.350 (~~(or)~~), until the board dismisses the charges specified in the notice (~~(under RCW 68.05.320)~~), or until the effective date of a cease and desist order issued against the cemetery authority under RCW 68.05.320. Actions for unlicensed activity must be conducted under RCW 18.235.150.

Sec. 71. RCW 68.20.061 and 1943 c 247 s 47 are each amended to read as follows:

It may restrict and limit the use of all property within its cemetery, including interment rights.

Sec. 72. RCW 68.20.110 and 1961 c 103 s 2 are each amended to read as follows:

(~~Such association~~) Nonprofit cemetery associations shall be authorized to purchase or take by gift or devise, and hold land exempt from execution and from any appropriation to public purposes for the sole purpose of a cemetery not exceeding eighty acres, which shall be exempt from taxation if intended to be used exclusively for burial purposes without discrimination as to race, color, national origin or ancestry, and in nowise with a view to profit of the members of such association: PROVIDED, That when the land already held by the association is all practically used then the amount thereof may be increased by adding thereto not exceeding twenty acres at a time. (~~Such association may by its bylaws provide that a stated percentage of the moneys realized from the sale of lots, donations or other sources of revenue, shall constitute an irreducible fund, which fund may be invested in such manner or loaned upon such securities~~)

~~as the association or the trustees thereof may deem proper. The interest or income arising from the irreducible fund, provided for in any bylaws, or so much thereof as may be necessary, shall be devoted exclusively to the preservation and embellishment of the lots sold to the members of such association, and where any bylaws has been enacted for the creation of an irreducible fund as herein provided for it cannot thereafter be amended in any manner whatever except for the purpose of increasing such fund. After paying for the land all the future receipts and income of such association subject to the provisions herein for the creation of an irreducible fund, whether from the sale of lots, from donations, rents or otherwise, shall be applied exclusively to laying out, preserving, protecting and embellishing the cemetery and the avenues leading thereto, and in the erection of such buildings as may be necessary or convenient for the cemetery purposes, and to paying the necessary expenses of the association. No debts shall be contracted in anticipation of any future receipts except for originally purchasing, laying out and embellishing the grounds and avenues, for which debts so contracted such association may issue bonds or notes and secure the same by way of mortgage upon any of its lands, excepting such lots as shall have been conveyed to the members thereof; and such association shall have power to adopt such rules and regulations as they shall deem expedient for disposing of and for conveying burial lots.))~~

Sec. 73. RCW 68.24.010 and 1943 c 247 s 61 are each amended to read as follows:

Cemetery authorities may take by purchase, donation, or devise, property consisting of lands, mausoleums, crematories, and columbariums, or other property within which the ~~((interment of the dead))~~ placement of human remains may be authorized by law.

Sec. 74. RCW 68.24.080 and 1943 c 247 s 68 are each amended to read as follows:

Dedication to cemetery purposes pursuant to this act is not invalid as violating any laws against perpetuities or the suspension of the power of alienation of title to or use of property, but is expressly permitted and shall be deemed to be in respect for the dead, a provision for the ~~((interment))~~ placement of human remains, and a duty to, and for the benefit of, the general public.

Sec. 75. RCW 68.24.090 and 1999 c 367 s 2 are each amended to read as follows:

Property dedicated to cemetery purposes shall be held and used exclusively for cemetery purposes, unless and until the dedication is removed from all or any part of it by an order and decree of the superior court of the county in which the property is situated, in a proceeding brought by the cemetery authority for that purpose and upon notice of hearing and proof satisfactory to the court:

(1) That no ~~((interments))~~ placements of human remains were made in or that all ~~((interments))~~ placements of human remains have been removed from that portion of the property from which dedication is sought to be removed.

(2) That the portion of the property from which dedication is sought to be removed is not being used for ~~((interment))~~ placement of human remains.

(3) That notice of the proposed removal of dedication has been given in writing to both the cemetery board and the office of archaeology and historic preservation. This notice must be given at least sixty days before filing the

proceedings in superior court. The notice of the proposed removal of dedication shall be recorded with the auditor or recording officer of the county where the cemetery is located at least sixty days before filing the proceedings in superior court.

Sec. 76. RCW 68.24.100 and 1943 c 247 s 77 are each amended to read as follows:

The notice of hearing provided in RCW 68.24.090 shall be given by publication once a week for at least three consecutive weeks in a newspaper of general circulation in the county where said cemetery is located, and the posting of copies of the notice in three conspicuous places on that portion of the property from which the dedication is to be removed. ~~((Said))~~ The notice shall:

(1) Describe the portion of the cemetery property sought to be removed from dedication.

(2) State that all human remains have been removed or that no interments have been made in the portion of the cemetery property sought to be removed from dedication.

(3) Specify the time and place of the hearing.

Sec. 77. RCW 68.24.110 and 1943 c 247 s 70 are each amended to read as follows:

After filing the map or plat and recording the declaration of dedication, a cemetery authority may sell and convey plots or rights of interment subject to ~~((such))~~ the rules ~~((and regulations as may be then))~~ in effect or thereafter adopted by the cemetery authority ~~((and))~~. Plots or rights of interment may be subject to ~~((such))~~ other ~~((and further))~~ limitations, conditions, and restrictions as may be ~~((inserted in or made a))~~ part of the declaration of dedication by reference, or included in the instrument of conveyance of ~~((such))~~ the plot or rights of interment.

Sec. 78. RCW 68.24.120 and 1943 c 247 s 71 are each amended to read as follows:

All plots or rights of interment, the use of which has been conveyed by deed or certificate of ownership as a separate plot or right of interment, are indivisible except with the consent of the cemetery authority, or as provided by law.

Sec. 79. RCW 68.24.130 and 1943 c 247 s 73 are each amended to read as follows:

It shall be unlawful for any person, firm, or corporation to sell or offer to sell a cemetery plot or right of interment upon the promise, representation, or inducement of resale at a financial profit. Each person violating this section shall be guilty of a misdemeanor and each violation shall constitute a separate offense.

Sec. 80. RCW 68.24.140 and 1943 c 247 s 74 are each amended to read as follows:

It shall be unlawful for a cemetery authority to pay or offer to pay to any person, firm, or corporation, directly or indirectly, a commission or bonus or rebate or other thing of value for the sale of a plot, right of interment, or services. This shall not apply to an owner or a person regularly employed by the cemetery authority for such purpose. Each person violating this section shall be guilty of a misdemeanor and each violation shall constitute a separate offense.

Sec. 81. RCW 68.24.150 and 1943 c 247 s 75 are each amended to read as follows:

Every person who pays ((~~or~~)), causes to be paid, or offers to pay to any other person, firm, or corporation, directly or indirectly, except as provided in RCW 68.24.140, any commission ((~~or~~)), bonus, or rebate, or other thing of value in consideration of recommending or causing ~~((a dead human body to be disposed of))~~ the disposition of human remains in any crematory or cemetery, is guilty of a misdemeanor ~~((and))~~. Each violation shall constitute a separate offense.

Sec. 82. RCW 68.24.160 and 1943 c 247 s 60 are each amended to read as follows:

All mortgages, deeds of trust, and other liens ~~((of any nature, hereafter contracted,))~~ placed ~~((or incurred))~~ upon property which has been ~~((and was at the time of the creation or placing of the lien,))~~ dedicated as a cemetery ~~((pursuant to this part)), or ((upon property))~~ which is afterwards ~~((, with the consent of the owner of any mortgage, trust deed or lien,))~~ dedicated to cemetery purposes pursuant to this ~~((part))~~ section, shall not affect or defeat the dedication ~~((, but))~~. The mortgage, deed of trust, or other lien is subject and subordinate to ((such)) the dedication ((and)). Any and all sales made upon foreclosure are subject and subordinate to the dedication for cemetery purposes.

Sec. 83. RCW 68.24.170 and 1943 c 247 s 40 are each amended to read as follows:

A record shall be kept of the ownership of all plots or rights of interment in the cemetery, which have been conveyed by the cemetery authority and of all transfers of plots and rights of interment in the cemetery. No transfer of any plot ~~((, heretofore or hereafter made,))~~ or ~~((any))~~ right of interment, shall be complete or effective until recorded on the books of the cemetery authority.

Sec. 84. RCW 68.24.180 and 1994 c 273 s 20 are each amended to read as follows:

After dedication under this title, and as long as the property remains dedicated to cemetery purposes, a railroad, street, road, alley, pipe line, pole line, or other public thoroughfare or utility shall not be laid out, through, over, or across any part of it without the consent of the cemetery authority ~~((owning and operating it,))~~ or of not less than two-thirds of the owners of ~~((interment))~~ plots ~~((:— PROVIDED HOWEVER, That a city of under twenty thousand may initiate, prior to January 1, 1995, an action to condemn cemetery property if the purpose is to further improve an existing street, or other public improvement and the proposed improvement does not interfere with existing interment plots containing human remains))~~ or rights of interment.

Sec. 85. RCW 68.24.190 and 1909 c 249 s 241 are each amended to read as follows:

Every person who shall make or open any road, or construct any railway, turnpike, canal, or other public easement over, through, in, or upon ~~((, such part of))~~ any ~~((inclosure as may be))~~ property used for the burial of ~~((the dead))~~ human remains, without authority of law or the consent of the owner ~~((thereof))~~, shall be guilty of a misdemeanor.

Sec. 86. RCW 68.24.220 and 1857 p 28 s 2 are each amended to read as follows:

Whenever any part of such burying ground shall have been designated and appropriated by the (~~proprietors thereof~~) owners as the burying place of any particular person or family, the same shall not be liable to be taken or disposed of by any warrant (~~or~~), execution, (~~for any~~) tax, or debt whatever; nor shall the same be liable to be sold to satisfy the demands of creditors whenever the estate of (~~such~~) the owner shall be insolvent.

Sec. 87. RCW 68.28.010 and 1943 c 247 s 134 are each amended to read as follows:

RCW 68.28.020 through 68.28.070, 68.20.080, 68.20.090, (~~68.48.040 and 68.48.060~~) 68.56.040, and 68.56.050, apply to all buildings, mausoleums, and columbariums used or intended to be used for the (~~interment~~) placement of the human remains of fifteen or more persons, whether erected under or above the surface of the earth, where any portion of the building is exposed to view or, when interment is completed, is less than three feet below the surface of the earth and covered by earth.

Sec. 88. RCW 68.28.020 and 1943 c 247 s 135 are each amended to read as follows:

A building not erected for, or which is not used as, a place (~~of interment~~) for placement of human remains which is converted or altered for such use is subject to this act.

Sec. 89. RCW 68.28.030 and 1943 c 247 s 136 are each amended to read as follows:

No building or structure intended to be used for the (~~interment~~) placement of human remains shall be constructed, and a building not used for the (~~interment~~) placement of human remains shall not be altered for use or used for interment purposes, unless constructed of such material and workmanship as will (~~insure~~) ensure its durability and permanence as dictated and determined at the time by modern mausoleum construction and engineering science.

Sec. 90. RCW 68.28.060 and 2003 c 53 s 306 are each amended to read as follows:

Every owner or operator of a mausoleum or columbarium erected in violation of this act is guilty of maintaining a public nuisance(~~;~~). A violation of this section is a gross misdemeanor(~~, and upon conviction is punishable by a fine of not less than five hundred dollars nor more than five thousand dollars or by imprisonment in a county jail for not less than one month nor more than six months, or by both; and, in addition is liable for all costs, expenses, and disbursements paid or incurred in prosecuting the case)~~).

Sec. 91. RCW 68.32.010 and 1943 c 247 s 88 are each amended to read as follows:

All plots or rights of interment conveyed to individuals are presumed to be the sole and separate property rights of the owner named in the instrument of conveyance.

Sec. 92. RCW 68.32.020 and 1943 c 247 s 89 are each amended to read as follows:

The spouse of an owner of any plot or right of interment containing more than one (~~interment~~) placement space has a vested right of (~~interment of his remains~~) placement in the plot and any person thereafter becoming the spouse

of the owner has a vested right of ~~((interment of his remains))~~ placement in the plot if more than one ~~((interment))~~ space is unoccupied at the time the person becomes the spouse of the owner.

Sec. 93. RCW 68.32.030 and 1943 c 247 s 90 are each amended to read as follows:

No conveyance or other action of the owner without the written consent ~~((or joinder))~~ of the spouse of the owner divests the spouse of a vested right of ~~((interment, except that))~~ placement. A final decree of divorce between them terminates the vested right of ~~((interment))~~ placement unless otherwise provided in the decree.

Sec. 94. RCW 68.32.040 and 1979 c 21 s 15 are each amended to read as follows:

If no ~~((interment))~~ placement is made in ~~((an interment))~~ a plot or right of interment, which has been transferred by deed or certificate of ownership to an individual owner, ~~((or))~~ the title descends to the surviving spouse. If there is no surviving spouse, the title descends to the heirs at law of the owner. Following death of the owner, if all remains previously ~~((interred))~~ placed are lawfully removed ~~((, upon the death of))~~ and the owner ~~((, unless the owner has disposed))~~ did not dispose of the plot ~~((either))~~ or right of interment by specific devise or by a written declaration filed and recorded in the office of the cemetery authority, the ~~((plot))~~ title descends to the surviving spouse ~~((or,))~~ . If there is no surviving spouse, the title descends to the heirs at law of the owner ~~((subject to the rights of interment of the decedent))~~.

Sec. 95. RCW 68.32.050 and 1943 c 247 s 93 are each amended to read as follows:

An affidavit by a person having knowledge of the facts setting forth the fact of the death of the owner and the name of the person or persons entitled to the use of the plot or right of interment pursuant to RCW 68.32.010 through 68.32.040, is complete authorization to the cemetery authority to permit the use of the unoccupied portions of the plot or interment right by the person entitled to the use of it.

Sec. 96. RCW 68.32.060 and 1979 c 21 s 16 are each amended to read as follows:

Whenever an interment of the human remains of a member or of a relative of a member of the family of the record owner or of the remains of the record owner is made in a plot transferred by deed or certificate of ownership to an individual owner and both the owner and the surviving spouse, if any, die with children then living without making disposition of the plot either by a specific devise, or by a written declaration filed and recorded in the office of the cemetery authority, the plot shall thereafter be held as a family plot and shall be subject to ~~((alienation))~~ sale only upon agreement of the children of the owner living at the time of ~~((said alienation))~~ sale.

Sec. 97. RCW 68.32.070 and 1943 c 247 s 94 are each amended to read as follows:

In a conveyance to two or more persons as joint tenants each joint tenant has a vested right of ~~((interment))~~ placement in the plot or right of interment conveyed.

Sec. 98. RCW 68.32.080 and 1943 c 247 s 95 are each amended to read as follows:

Upon the death of a joint tenant, the title to the plot or right of interment held in joint tenancy immediately vests in the survivors, subject to the vested right of interment (~~(of the remains)~~) of the deceased joint tenant.

Sec. 99. RCW 68.32.090 and 1943 c 247 s 96 are each amended to read as follows:

An affidavit by any person having knowledge of the (~~(facts setting forth the)~~) fact of the death of one joint tenant and establishing the identity of the surviving joint tenants named in the deed to any plot or right of interment, when filed with the cemetery authority (~~(operating the cemetery in which the plot is located)~~), is complete authorization to the cemetery authority to permit the use of the unoccupied portion of the plot or right of interment in accordance with the directions of the surviving joint tenants (~~(or their successors in interest)~~).

Sec. 100. RCW 68.32.100 and 1943 c 247 s 97 are each amended to read as follows:

When there are several owners of a plot(~~;~~) or (~~(of rights)~~) right of interment (~~(in it)~~), they may designate one or more persons to represent the plot or interment right and file written notice of designation with the cemetery authority. In the absence of such notice or of written objection to its so doing, the cemetery authority is not liable to any owner for (~~(interring or)~~) permitting (~~(an interment)~~) the placement in the plot or right of interment upon the request or direction of any co-owner of the plot or right of interment.

Sec. 101. RCW 68.32.110 and 1943 c 247 s 99 are each amended to read as follows:

In a family plot one (~~(grave, niche or crypt)~~) right of interment may be used for the owner's interment(~~;~~) and one for the owner's surviving spouse, if any(~~;~~ who by law has a vested right of interment in it; and in those), Any unoccupied spaces may then be used by the remaining(~~(, if any, the)~~) parents and children of the deceased owner, if any, then to the spouse of any child of the owner, then to the heirs at law of the owner, in the order of death (~~(may be interred without the consent of any person claiming any interest in the plot)~~).

Sec. 102. RCW 68.32.130 and 1943 c 247 s 101 are each amended to read as follows:

Any surviving spouse, parent, child, or heir having a right of (~~(interment)~~) placement in a family plot may waive such right in favor of any other relative or spouse of a relative of the deceased owner(~~;~~ and), Upon such a waiver, the remains of the person in whose favor the waiver is made may be (~~(interred)~~) placed in the plot.

Sec. 103. RCW 68.32.140 and 1943 c 247 s 102 are each amended to read as follows:

A vested right of (~~(interment)~~) placement may be waived and is terminated upon the (~~(interment)~~) placement elsewhere of the remains of the person in whom vested.

Sec. 104. RCW 68.32.150 and 1943 c 247 s 103 are each amended to read as follows:

No vested right of interment gives ~~((to))~~ any person the right to have his or her remains interred in any interment space in which the remains of any deceased person having a prior vested right of interment have been interred (~~(; nor does it)~~). No vested right of interment gives any person the right to have the remains of more than one deceased person ~~((interred))~~ placed in a single ~~((interment))~~ space in violation of the rules and regulations of the cemetery in which the ~~((interment))~~ space is located.

Sec. 105. RCW 68.32.160 and 1943 c 247 s 104 are each amended to read as follows:

A cemetery authority may take and hold any plot or right of interment conveyed ~~((or devised))~~ to it by the plot owner so that it will be ~~((inalienable, and interments))~~ nontransferable. Placements shall be restricted to the persons designated in the conveyance ~~((or devise))~~.

Sec. 106. RCW 68.36.010 and 1943 c 247 s 78 are each amended to read as follows:

The ownership ~~((of))~~ or right ~~((in or))~~ to unoccupied cemetery space in this state shall, upon abandonment, be subject to forfeiture and sale by the person ~~(; association, corporation))~~ or ~~((municipality))~~ entity having ownership or management of the cemetery ~~((containing such unoccupied cemetery space, for the purpose of providing for perpetual care. The continued failure by an owner to maintain or care for an unoccupied cemetery lot, unoccupied part of lot, unoccupied lots or parts of lots for a period of five years shall create and establish a presumption that the same has been abandoned))~~. Unoccupied cemetery space is presumed to be abandoned if it has been neglected and in a state of disrepair for a period of five years.

Sec. 107. RCW 68.36.020 and 1943 c 247 s 79 are each amended to read as follows:

~~((Before such five-year period shall commence to run, the owner or manager of the cemetery shall place upon and during such five-year period shall maintain upon such unoccupied cemetery space a suitable notice))~~ Cemetery management shall place a suitable notice on each unoccupied space, setting forth the date the notice is placed ~~((thereon))~~ and ~~((stating))~~ that ~~((such))~~ the unoccupied space is subject to forfeiture and sale by the ~~((owner or manager of the))~~ cemetery ~~((to provide for perpetual care,))~~. If the owner of ~~((such))~~ the unoccupied space fails during the next ~~((five))~~ three years following the date of the notice to maintain or care for the ~~((same or unless the owner of such unoccupied space contracts for the perpetual care of the same: PROVIDED, HOWEVER, That))~~ unoccupied space, the cemetery may reclaim the unoccupied space. However, such a notice cannot be placed on the unoccupied space in any cemetery lot until twenty years have elapsed since the last interment in any such lot of a member of the immediate family of the record owner. ~~((Members of the immediate family shall be construed to include surviving spouse, children, parents, and brothers and sisters.))~~

Sec. 108. RCW 68.36.030 and 1943 c 247 s 80 are each amended to read as follows:

After ~~((such five))~~ a three-year period, the owner or manager of the cemetery may file ~~((in the office of the county clerk for the county in which the cemetery is located))~~ a verified petition in the office of the county clerk, setting

forth (~~(its ownership or management of the cemetery,))~~ the facts relating to the ~~((continued failure by the owner for a period of five consecutive years to maintain or care for such cemetery lot, part of lot, lots or parts of lots and such facts relating to the ownership thereof as petitioner may have, and asking))~~ abandonment. The petition may ask for an order of the superior court for ~~((such county, adjudging the lot, part of lot, lots or parts of lots to have been abandoned))~~ abandonment.

At the time of filing ~~((such))~~ the petition, ~~((the owner or manager of))~~ the cemetery authority shall ~~((apply for and the superior court for such county shall fix a time for the))~~ request a hearing of the petition ~~((not less than sixty days nor more than ninety days from the time of the application)).~~ The superior court will fix the time for the hearing. Not less than sixty days before the time fixed for the hearing of the petition, notice and nature of the hearing ~~((and the nature and object of the same))~~ shall be given to the owner of such unoccupied space~~((, as herein provided)).~~

Sec. 109. RCW 68.36.040 and 1943 c 247 s 81 are each amended to read as follows:

The notice may be served personally upon the owner, or may be given by the mailing of the notice by registered mail to the owner to his or her last known address and by publishing the notice three times in a legal newspaper published in the county in which the cemetery is located~~((, and if there be no legal newspaper in the county, then in a legal newspaper published in an adjoining county, and if there be no legal newspaper in an adjoining county, then in a legal newspaper published at the capital of the state))~~. In the event that the whereabouts of the owner is unknown, ~~((or if the owner be unknown,))~~ then the notice may be given ~~((to such owner, unknown owner or unknown claimant, and all other persons or parties claiming any right, title or interest therein,))~~ by publishing the notice three times in a legal newspaper as ~~((aforesaid))~~ required by this section. The cemetery authority may file an affidavit ~~((of the owner or manager of the cemetery involved))~~ in the proceeding to the effect that ~~((such))~~ the owner ~~((or claimant))~~ is unknown ~~((to him))~~ and that ~~((he))~~ the cemetery exercised diligence in attempting to locate ~~((such))~~ the unknown parties. The affidavit shall~~((, if filed in the proceeding,))~~ be conclusive to that effect.

Sec. 110. RCW 68.36.050 and 1943 c 247 s 82 are each amended to read as follows:

~~((Thereupon, such))~~ An owner or claimant may appear and ~~((make))~~ answer ~~((to))~~ the allegations of ~~((said))~~ the petition~~((, and in case of his failure so)).~~ If an owner fails to do so prior to the day fixed for hearing, ~~((his))~~ a default shall be entered and it shall then be the duty of the superior court ~~((for such county))~~ to immediately enter an order adjudging ~~((such))~~ the unoccupied space to have been abandoned and subject to sale ~~((at the expiration of one year by the person, association, corporation or municipality having ownership or management of the cemetery containing the same)).~~ In the event the owner or claimant shall appear and file his or her answer prior to the day fixed for the hearing, the presumption of abandonment shall no longer exist, and on the day fixed for the hearing of ~~((said))~~ the petition or on any subsequent day to which the hearing of the cause is adjourned, the allegations and proof of the parties shall be presented to the court and if the court shall determine ~~((therefrom))~~ that there has been a continued

failure to maintain or care for ~~((such))~~ the unoccupied space for a period of ~~((five))~~ three consecutive years preceding the filing of ~~((said))~~ the petition, an order shall be entered accordingly adjudging ~~((such))~~ the unoccupied space to have been abandoned and subject to sale at the expiration of one year by the person, association, corporation, or municipality having ownership of the cemetery containing the same. Upon any adjudication of abandonment, the court shall fix such sum as it shall deem reasonable as ~~((an attorney's))~~ attorneys' fees for petitioner's attorney for ~~((each lot, part of lot, lots or parts of lots))~~ rights of interment adjudged to have been abandoned in such proceedings.

Sec. 111. RCW 68.40.010 and 1987 c 331 s 35 are each amended to read as follows:

~~((After July 1, 1987,))~~ A cemetery authority not exempt under this chapter shall deposit in an endowment care fund not less than the following amounts for plots or interment rights sold: Ten percent of the gross sales price ~~((, with a minimum of ten dollars))~~ for each ~~((adult))~~ grave ~~((; ten percent of the gross sales price, with a minimum of five dollars for each))~~, niche ~~((; and ten percent of the gross sales price, with a minimum of thirty dollars for each))~~, or crypt.

In the event that a cemetery authority sells ~~((a lot, crypt, or niche))~~ an interment right at a price that is less than its current list price, or gives away, bequeaths, or otherwise gives title to ~~((a lot, crypt, or niche, such lot, crypt, or niche))~~ an interment right, the interment right shall be endowed at the rate at which it would normally be endowed ~~((; A minimum of ten percent of normal sales price or ten dollars per lot, whichever is greater; ten percent of normal sales price or five dollars per niche, whichever is greater; and ten percent of normal sales price or thirty dollars per crypt, whichever is greater)).~~

The deposits shall be made not later than the twentieth day of the month following the final payment on the sale price. If a contract for ~~((crypts, niches, or graves))~~ interment rights is sold, pledged, or otherwise encumbered as security for a loan by the cemetery authority, the cemetery authority shall pay into the endowment care fund ten percent of the gross sales price ~~((with a minimum of ten dollars for each adult grave, five dollars for each niche, and thirty dollars for each crypt))~~ of the interment right within twenty days of receipt of payment of the proceeds from such sale or loan.

Any cemetery hereafter established shall have deposited in an endowment care fund the sum of twenty-five thousand dollars before ~~((disposing of))~~ selling any ~~((plot or making any sale thereof))~~ interment right.

Sec. 112. RCW 68.40.025 and 1987 c 331 s 36 are each amended to read as follows:

Cemeteries with nonendowed sections opened before July 1, 1987, shall only be required to endow sections opened after July 1, 1987. On the face of any contract, receipt, or deed used for sales of nonendowed ~~((lots))~~ interment rights shall be prominently displayed the words "Nonendowment section." All nonendowed sections shall be identified as such by posting of a legible sign containing the following phrase: "Nonendowment section."

Sec. 113. RCW 68.40.060 and 1987 c 331 s 38 are each amended to read as follows:

The cemetery authority of an endowment care cemetery may accept any property bequeathed, granted, or given to it in trust and may apply the income

from such property (~~(bequeathed, granted, or given to in trust)~~) to any or all of the following purposes:

(1) Improvement or embellishment of all or any part of the cemetery (~~(or any lot in it)~~);

(2) Erection, renewal, repair, or preservation of any monument, fence, building, or other structure in the cemetery;

(3) Planting or cultivation of trees, shrubs, or plants in or around any part of the cemetery;

(4) Special care or ornamenting of any part of any (~~(plot)~~) interment right, section, or building in the cemetery; and

(5) Any purpose or use consistent with the purpose for which the cemetery was established or is maintained.

Sec. 114. RCW 68.44.020 and 1987 c 331 s 42 are each amended to read as follows:

Endowment care funds shall not be used for any purpose other than to provide, through income only, for the endowment care stipulated in the instrument by which the fund was established (~~(, and)~~). Endowment care funds shall be kept separate and distinct from all assets of the cemetery authority. (~~The~~) Endowment care principal shall (~~forever~~) remain inviolable and may not be reduced in any way not found within RCW 11.100.020.

Sec. 115. RCW 68.44.070 and 1953 c 290 s 16 are each amended to read as follows:

(~~The~~) Contributions to endowment care and special care funds (~~and all payments or contributions thereto~~) are (~~hereby expressly~~) permitted for charitable (~~and eleemosynary~~) purposes. Endowment care and such contributions are provisions for the discharge of a duty from the persons contributing to the persons interred (~~and~~) or to be interred in the cemetery (~~and provisions~~). This provision is for the benefit and protection of the public by preserving and keeping cemeteries from becoming (~~unkept and~~) neglected places of (~~reproach and desolation~~) disgrace in the communities (~~in which~~) they (~~are situated. No payment, or contribution for general endowment care, is invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries in the instruments creating the trust, nor is the fund or any contribution to it invalid as violating any law against perpetuities, or the suspension of the power of alienation of title to property~~) serve.

Sec. 116. RCW 68.44.080 and 1953 c 290 s 17 are each amended to read as follows:

The cemetery authority may (~~from time to time~~) adopt plans for the (~~general~~) care, maintenance, and embellishment of its cemetery (~~(, and)~~). A cemetery authority may charge and collect from all purchasers of plots (~~such~~) or rights of interment a reasonable sum (~~as it deems will aggregate~~) that will generate a fund, and the (~~reasonable~~) income from (~~which~~) the fund will provide care, maintenance, and embellishment on an endowment basis.

Sec. 117. RCW 68.44.090 and 1953 c 290 s 18 are each amended to read as follows:

Upon payment of the purchase price and the (~~amount fixed as a proportionate~~) contribution for endowment care, (~~there may be included in the~~) a deed of conveyance or (~~by separate~~) other instrument(~~;~~) may include

an agreement to care ~~((, in accordance with the plan adopted,))~~ for the cemetery ~~((and its appurtenances)),~~ on an endowment basis to the ~~((proportionate))~~ extent the income ~~((received by the cemetery authority from the contribution))~~ will permit.

Sec. 118. RCW 68.44.100 and 1953 c 290 s 19 are each amended to read as follows:

Upon the application of an owner of a plot, and upon the payment by ~~((him))~~ the owner of the amount fixed as a reasonable and proportionate contribution for endowment care, a cemetery authority may enter into an agreement with ~~((him))~~ the owner for the special care of his or her plot and its appurtenances.

Sec. 119. RCW 68.44.110 and 1987 c 331 s 43 are each amended to read as follows:

Unless an association of lot owners has been created for the purpose of appointing trustees, the cemetery authority shall appoint a ~~((board of not less than))~~ minimum of three ~~((members as))~~ trustees for its endowment care fund, who shall hold office subject to the direction of the cemetery authority.

Sec. 120. RCW 68.44.120 and 1987 c 331 s 45 are each amended to read as follows:

The directors of a cemetery authority may be the trustees of its endowment care fund. When the fund is in the care of the directors ~~((as a board of trustees)),~~ the secretary of the cemetery authority shall ~~((act as its secretary and))~~ keep a true record of all of its proceedings.

Sec. 121. RCW 68.44.130 and 1987 c 331 s 46 are each amended to read as follows:

In lieu of the appointment of a board of trustees of its endowment care fund, ~~((any))~~ a cemetery authority may appoint, as sole trustee of its endowment care fund, any bank or trust company qualified to engage in the trust business ~~((, and said)).~~ The bank or trust company shall be authorized to receive and accept ~~((said))~~ the endowment care fund ~~((, including any accumulated endowment care fund in existence))~~ at the time of its appointment.

Sec. 122. RCW 68.44.140 and 1987 c 331 s 47 are each amended to read as follows:

Compensation to the board of trustees or trustee for services as trustee and other compensation for administration of trust funds shall not exceed ~~((in the aggregate))~~ the customary fees charged by banks and trust companies for like services. Such fees may not be paid from the fund principal.

Sec. 123. RCW 68.44.150 and 1987 c 331 s 48 are each amended to read as follows:

The cemetery authority or the trustees in whose names the funds are held shall, annually, and within ninety days after the end of the calendar or fiscal year of the cemetery authority, ~~((make and keep on file for seven years a true and correct written report, verified on oath by an officer of the cemetery authority or by the oath of one or more of the trustees,))~~ file in its office and with the cemetery board endowment care trust fund, a report showing the actual financial condition of the funds. The report must be signed by an officer of the cemetery

authority or one or more of the trustees. The report must be maintained for a period of seven years.

Sec. 124. RCW 68.44.160 and 1953 c 290 s 22 are each amended to read as follows:

A cemetery authority which has established an endowment care fund may take and hold, as a part of (~~(or incident to)~~) the fund, any property, real, personal, or mixed, bequeathed, devised, granted, given, or otherwise contributed to it for its endowment care fund.

Sec. 125. RCW 68.46.010 and 1979 c 21 s 22 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly (~~(indicates)~~) requires otherwise(~~(, the following terms as used only in this chapter have the meaning given in this section:)~~).

(1) "Prearrangement contract" means a contract for purchase of cemetery merchandise or services, unconstructed crypts or niches, or undeveloped graves to be furnished at a future date for a specific consideration which is paid in advance by one or more payments in one sum or by installment payments.

(2) (~~"Cemetery authority" shall have the same meaning as in RCW 68.04.190, and shall also include any individual, partnership, firm, joint venture, corporation, company, association, or joint [joint] stock company, any of which sells cemetery services or merchandise, unconstructed crypts or niches, or undeveloped graves through a prearrangement contract, but shall not include insurance companies licensed under chapter 48.05 RCW.~~)

(~~3~~) "Cemetery merchandise or services" and "merchandise or services" mean those services normally performed by cemetery authorities, including the sale of monuments, markers, memorials, nameplates, liners, vaults, boxes, urns, vases, interment services, or any one or more of them.

(~~4~~) (3) "Prearrangement trust fund" means all funds required to be maintained in one or more funds for the benefit of beneficiaries by either this chapter or by the terms of a prearrangement contract, as herein defined.

(~~5~~) "Depository" means a qualified public depository as defined by RCW 39.58.010, a credit union as governed by chapter 31.12 RCW, a mutual savings bank as governed by Title 32 RCW, a savings and loan association as governed by Title 33 RCW, and a federal credit union or a federal savings and loan association organized, operated, and governed by any act of congress, in which prearrangement funds are deposited by any cemetery authority.

(~~6~~) (4) "Board" means the cemetery board established under chapter 68.05 RCW or its authorized representative.

(~~7~~) (5) "Undeveloped grave" means any grave in an area which a cemetery authority has not landscaped (~~(and)~~), groomed, or developed to the extent customary in the cemetery industry (~~(in that community)~~).

Sec. 126. RCW 68.46.020 and 1973 1st ex.s. c 68 s 2 are each amended to read as follows:

Any cemetery authority selling by prearrangement contracts any merchandise or services shall establish and maintain one or more prearrangement trust funds for the benefit of beneficiaries of prearrangement contracts.

Sec. 127. RCW 68.46.030 and 1984 c 53 s 3 are each amended to read as follows:

(1) For each prearrangement contract, a cemetery authority shall deposit ((in its prearrangement trust account a percentage of all funds collected in payment of each prearrangement contract equal to the greater of:

(a) Fifty percent of the contract price; or

(b) The percentage which the total of the wholesale cost of merchandise and the direct cost of services to be provided pursuant to the contract is of the total contract price)) the greater of the following amounts in its prearrangement trust fund:

(a) For merchandise:

(i) Fifty percent of the contract price; or

(ii) The wholesale cost of the item.

(b) For services:

(i) Fifty percent of the contract price; or

(ii) The direct cost of providing the service.

(2) Any cemetery authority which does not file and maintain with the board a bond as provided in subsection (4) of this section shall deposit in its prearrangement trust fund ((fifty percent, or greater percentage as determined under subsection (1) of this section, of all moneys received in payment of each prearrangement contract)) an amount as determined under subsection (1) of this section, excluding sales tax and endowment care if such charge is made.

(3) Any cemetery authority which files and maintains with the board a bond as provided in subsection (4) of this section ((shall deposit in its prearrangement trust fund each payment as made on the last fifty percent, or greater percentage as determined under subsection (1) of this section, of each prearrangement contract)) may retain the nontrustable portion of the contract before depositing the balance of payments into its prearrangement trust fund, as determined under subsection (1) of this section, excluding sales tax and endowment care, if such charge is made.

(4) Each cemetery authority electing to make payments to its prearrangement trust fund pursuant to subsection (3) of this section shall file and maintain with the board a bond, issued by a surety company authorized to do business in the state, in the amount by which the cemetery authority's contingent liability for refunds pursuant to RCW 68.46.060 exceeds the amount deposited in its prearrangement trust fund. The bond shall ((run to the state and shall)) be conditioned that it is for the use and benefit of any person requesting a refund pursuant to RCW 68.46.060 if the cemetery authority does not promptly pay to ((said)) the person the refund due pursuant to RCW 68.46.060. In addition to any other remedy, every person not promptly receiving the refund due pursuant to RCW 68.46.060 may sue the surety for the refund. The liability of the surety shall not exceed the amount of the bond. Termination or cancellation shall not be effective unless notice is delivered by the surety to the board at least thirty days prior to the date of termination or cancellation. The board shall immediately notify the cemetery authority affected by the termination or cancellation by certified mail, return receipt requested. The cemetery authority shall thereupon obtain another bond or make such other arrangement as may be satisfactory to the board to ((assure)) ensure its ability to make refunds pursuant to RCW 68.46.060.

(5) Deposits to the prearrangement trust fund shall be made not later than the twentieth day of each month following receipt of each payment required to be deposited. If a prearrangement contract is sold, pledged, or otherwise encumbered as security for a loan by the cemetery authority, the cemetery authority shall pay into the prearrangement trust fund fifty percent of the total sale price of the prearrangement contract within twenty days of receipt of payment of the proceeds from the sale or loan.

(6) Any failure to fund a prearrangement contract as required by this section shall be grounds for ~~(revocation of the)~~ disciplinary action against the cemetery authority and the cemetery authority's prearrangement sales license.

Sec. 128. RCW 68.46.040 and 1987 c 331 s 50 are each amended to read as follows:

All prearrangement trust funds shall be deposited in a ~~((qualified))~~ public depository as defined by RCW ~~((68.46.010))~~ 39.58.010, in a state or federally chartered credit union, or in instruments issued or insured by any agency of the federal government~~((, if these securities are held in public depository))~~. Such ~~((savings))~~ accounts shall be designated as the "prearrangement trust fund" by name and the particular cemetery authority for the benefit of the beneficiaries named in any prearrangement contract.

Sec. 129. RCW 68.46.050 and 1995 1st sp.s. c 18 s 65 are each amended to read as follows:

(1) A ~~((bank, trust company, or savings and loan association designated as the))~~ depository of prearrangement funds shall permit ~~((withdrawal by a cemetery authority of))~~ a cemetery authority to withdraw all funds deposited under any specific prearrangement contract plus interest accrued thereon, under the following circumstances and conditions:

(a) If the cemetery authority files a verified statement with the depository that the prearrangement merchandise and services covered by a contract have been furnished and delivered ~~((in accordance therewith))~~; or

(b) If the cemetery authority files a verified statement that a specific prearrangement contract has been canceled in accordance with its terms.

(2) The department of social and health services shall notify the cemetery authority maintaining a prearrangement trust fund regulated by this chapter that the department has a claim on the estate of a beneficiary for long-term care services. Such notice shall be renewed at least every three years. The cemetery authority, upon becoming aware of the death of a beneficiary, shall give notice to the department of social and health services, office of financial recovery, who shall file any claim there may be within thirty days of the notice.

Sec. 130. RCW 68.46.055 and 1984 c 53 s 8 are each amended to read as follows:

~~((+))~~ No cemetery authority may enter into a retail contract for the purchase of debentures, shares, scrip, bonds, notes, or any instrument or evidence of indebtedness ~~((, excluding retail installment sales transactions governed by chapter 63.14 RCW, which directly or indirectly))~~ that requires ~~((or permits))~~ the cemetery authority to furnish ~~((to the holder at a future date))~~ cemetery merchandise ~~((or)),~~ services, or ~~((crypts, niches, or graves))~~ interment rights to the holder at a future date. This section does not include retail installment sales transactions governed by chapter 63.14 RCW.

~~((2) A cemetery authority which enters into prearrangement contracts for the sale of unconstructed crypts or niches or undeveloped graves or which conveys undeveloped graves by gift shall maintain an adequate inventory of constructed crypts or niches and developed graves which in quality are equal to or better than the unconstructed crypts or niches, or undeveloped graves if they were constructed or developed. In the event of the death of a purchaser or owner of an unconstructed crypt or niche or undeveloped grave before the unconstructed crypt or niche or undeveloped grave is constructed or developed the cemetery authority shall provide a constructed crypt or niche or developed grave of equal or better quality without additional cost or charge. If two or more unconstructed crypts or niches or undeveloped graves are conveyed with the intention that the crypts or niches or graves shall be contiguous to each other or maintained together as a group and the death of any one purchaser or owner in such group occurs before the unconstructed crypts or niches or undeveloped graves are developed, the cemetery authority shall provide additional constructed crypts or niches or developed graves of equal or better quality contiguous to each other or together as a group as originally intended to other purchasers or owners in the group without additional cost or charge.))~~

NEW SECTION. **Sec. 131.** A new section is added to chapter 68.46 RCW to read as follows:

(1) A cemetery authority that enters into prearrangement contracts for the sale of unconstructed crypts, niches, or undeveloped property, or that conveys undeveloped property by gift, shall maintain an adequate inventory of constructed crypts or niches and developed property. The inventory shall be a minimum of ten percent of the unconstructed or undeveloped property sales. The inventory shall be equal or better in quality than the unconstructed crypts or niches, or undeveloped property if they were constructed or developed.

(2) If the death of a purchaser or owner of an unconstructed crypt, niche, or undeveloped property occurs before the property is constructed or developed, the cemetery authority shall provide a constructed crypt, niche, or developed property of equal or better quality without additional cost or charge.

(3) If two or more unconstructed crypts, niches, or undeveloped properties are conveyed with the intention that the crypts, niches, or properties shall be contiguous to each other or maintained together as a group and the death of any one purchaser or owner in such group occurs before the unconstructed crypts, niches, or undeveloped property is developed, the cemetery authority shall provide additional constructed crypts, niches, or developed property of equal or better quality, contiguous to each other or together as a group, as originally intended, to other purchasers or owners in the group without additional cost or charge.

(4) The representative of the deceased purchaser may agree to the placement of the decedent in a temporary crypt, niche, or grave until the construction is completed and the decedent is placed in the new crypt, niche, or grave.

(5) Prearrangement sales of unconstructed crypts, niches, or undeveloped property must meet the requirements of RCW 68.46.030.

Sec. 132. RCW 68.46.060 and 1987 c 331 s 51 are each amended to read as follows:

Any purchaser or beneficiary (~~(or beneficiaries)~~) may, upon written demand of any cemetery authority, demand that any prearrangement contract with such cemetery authority be terminated. In such event, the cemetery authority shall, within thirty days, refund to (~~(such)~~) the purchaser or beneficiary (~~(or beneficiaries)~~) fifty percent of the moneys received less the contractual price of any merchandise delivered or services performed before the termination plus interest earned. In any case, where, under a prearrangement contract there is more than one beneficiary, no written demand as provided in this section shall be honored by any cemetery authority unless the written demand provided for in this section shall bear the signatures of all of such beneficiaries.

Sec. 133. RCW 68.46.075 and 1979 c 21 s 27 are each amended to read as follows:

In the event the beneficiary (~~(or beneficiaries)~~) of a prearrangement contract make no claim within fifty years of the date of the contract for the merchandise and services provided in the prearrangement contract, the funds deposited in the prearrangement trust (~~(funds attributable to)~~) for that contract (~~(and the)~~), plus interest (~~(on said funds)~~), shall be transferred to the cemetery authority's endowment fund, to be used for the (~~(uses and)~~) purposes for which the endowment fund was established. However, the cemetery authority shall remain obligated for merchandise and services, unconstructed crypts (~~(or)~~), niches, and undeveloped (~~(graves)~~) property under the terms of the prearrangement contract. Claims may be made for merchandise and services, unconstructed crypts (~~(or)~~), niches, and undeveloped (~~(graves)~~) property on a prearrangement contract after the funds have been transferred to the endowment fund (~~(and)~~). These claims shall be paid for from the endowment fund income (~~(to the extent of the funds attributable to the prearrangement)~~) on a contract by contract basis.

Sec. 134. RCW 68.46.080 and 1973 1st ex.s. c 68 s 8 are each amended to read as follows:

Prearrangement trust funds shall not be used in any way(~~(, directly or indirectly,))~~) for the benefit of the cemetery authority or any director, officer, agent, or employee of any cemetery authority, including, but not limited to any encumbrance, pledge, or other utilization or prearrangement trust funds as collateral or other security.

Sec. 135. RCW 68.46.090 and 1983 c 190 s 1 are each amended to read as follows:

Any cemetery authority selling prearrangement merchandise or other prearrangement services shall file in its office (~~(or offices)~~) and with the cemetery board a written report upon forms prepared by the cemetery board which shall state the amount of the principle of the prearrangement trust fund (~~(or funds)~~), the depository of such fund (~~(or funds)~~), and cash on hand which is or may be due to (~~(such)~~) the fund as well as (~~(such)~~) other information the board may deem appropriate. All information appearing on such written reports shall be revised at least annually. These reports shall be verified by the president, or the vice-president, and one other officer of the cemetery authority, the accountant or auditor who prepared the report, and, if required by the board for good cause, a certified public accountant in accordance with generally accepted auditing standards. (~~(Verification of these reports by a certified public accountant in accordance with generally accepted auditing standards shall be~~

~~required on reports from cemetery authorities which manage prearrangement trust funds totaling in excess of five hundred thousand dollars.))~~

Sec. 136. RCW 68.46.100 and 1987 c 331 s 53 are each amended to read as follows:

Every prearrangement contract shall contain language which informs the purchaser of the prearrangement trust fund and the amount to be deposited in the prearrangement trust fund ~~((, which shall not be less than fifty percent of the cash purchase price of the merchandise and services in the contract and shall not include charges for endowment care when included in the purchase price)).~~ The amount deposited to the prearrangement trust fund must meet the requirements of RCW 68.46.030.

Every prearrangement contract shall contain language prominently featured on the face of the contract disclosing to the purchaser what items will be delivered before need, either stored or installed, and thus not subject to funding or refund.

Every prearrangement contract for the sale of unconstructed crypts ~~((~~or~~)),~~ niches, or undeveloped ~~((graves and every conveyance instrument))~~ property shall contain language which informs the purchaser that ~~((if the purchaser dies before the unconstructed crypt or niche or undeveloped grave is constructed or developed the cemetery authority must provide, without additional cost or charge, a constructed crypt or niche or developed grave of equal or better quality than the unconstructed crypt or niche or undeveloped grave would have been if it were constructed or developed))~~ sales of unconstructed or undeveloped property are subject to the provisions of RCW 68.46.030.

Sec. 137. RCW 68.46.110 and 1973 1st ex.s. c 68 s 11 are each amended to read as follows:

No cemetery authority shall sell, offer to sell, or authorize the sale of cemetery merchandise or services or accept funds in payment of any prearrangement contract ~~((, either directly or indirectly,))~~ unless such acts are performed in compliance with ~~((chapter 68, Laws of 1973 1st ex. sess.))~~ this title and under the authority of a valid ~~((, subsisting))~~ and unsuspended certificate of authority to operate a cemetery in this state ~~((by the Washington state cemetery board)).~~

Sec. 138. RCW 68.50.110 and 1987 c 331 s 60 are each amended to read as follows:

Except in cases of dissection provided for in RCW 68.50.100, and where ~~((a dead body))~~ human remains shall rightfully be carried through or removed from the state for the purpose of burial elsewhere, ~~((every dead body of a human being))~~ human remains lying within this state, and the remains of any dissected body, after dissection, shall be decently buried, or cremated within a reasonable time after death.

Sec. 139. RCW 68.50.130 and 1943 c 247 s 28 are each amended to read as follows:

Every person who ~~((permanently deposits or disposes))~~ performs a disposition of any human remains, except as otherwise provided by law, in any place, except in a cemetery or a building dedicated exclusively for religious purposes, is guilty of a misdemeanor. Disposition of cremated human remains may also occur on private property, with the consent of the property owner; and

on public or government lands or waters with the approval of the government agency that has either jurisdiction or control, or both, of the lands or waters.

Sec. 140. RCW 68.50.140 and 2003 c 53 s 308 are each amended to read as follows:

(1) Every person who shall remove (~~the dead body of a~~) human (~~being~~) remains, or any part thereof, from a grave, vault, or other place where the same has been buried or deposited awaiting burial or cremation, without authority of law, with intent to sell the same, or for the purpose of securing a reward for its return, or for dissection, or from malice or wantonness, is guilty of a class C felony (~~and shall be punished by imprisonment in a state correctional facility for not more than five years, or by a fine of not more than one thousand dollars, or by both~~).

(2) Every person who shall purchase or receive, except for burial or cremation, (~~any such dead body,~~) human remains or any part thereof, knowing that the same has been removed contrary to the foregoing provisions, is guilty of a class C felony (~~and shall be punished by imprisonment in a state correctional facility for not more than three years, or by a fine of not more than one thousand dollars, or by both~~).

(3) Every person who shall open a grave or other place of interment, temporary or otherwise, or a building where (~~such dead body is deposited while awaiting burial or cremation, with intent to remove the body or any part thereof, for the purpose of selling or demanding money for the same, for dissection, from malice or wantonness, or~~) human remains are placed, with intent to sell or remove the (~~coffin~~) casket, urn, or of any part thereof, or anything attached thereto, or any vestment, or other article interred, or intended to be interred with the (~~body~~) human remains, is guilty of a class C felony (~~and shall be punished by imprisonment in a state correctional facility for not more than three years, or by a fine of not more than one thousand dollars, or by both~~).

(4) Every person who removes, disinters, or mutilates human remains from a place of interment, without authority of law, is guilty of a class C felony.

Sec. 141. RCW 68.50.160 and 1993 c 297 s 1 are each amended to read as follows:

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

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

(3) If the decedent has not made a prearrangement as set forth in subsection (2) of this section or the costs of executing the decedent's wishes regarding the disposition of the decedent's remains exceeds a reasonable amount or directions have not been given by the decedent, the right to control the disposition of the

remains of a deceased person vests in, and the duty of disposition and the liability for the reasonable cost of preparation, care, and disposition of such remains devolves upon the following in the order named:

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

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

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

Sec. 142. RCW 68.50.170 and 1943 c 247 s 30 are each amended to read as follows:

Any person signing any authorization for the interment or cremation of any human remains warrants the truthfulness of any fact set forth in the authorization, the identity of the person whose human remains are sought to be interred or cremated, and his or her authority to order interments or cremation. ~~((He))~~ That person is personally liable for all damage occasioned by or resulting from breach of such warranty.

Sec. 143. RCW 68.50.185 and 1987 c 331 s 61 are each amended to read as follows:

(1) A person authorized to dispose of human remains shall not cremate or cause to be cremated more than one (~~((body))~~) human remains at a time unless written permission, after full and adequate disclosure regarding the manner of cremation, has been received from the person or persons under RCW 68.50.160 having the authority to order cremation. This restriction shall not apply when equipment, techniques, or devices are employed that keep human remains separate and distinct before, during, and after the cremation process.

(2) Violation of this section is a gross misdemeanor.

Sec. 144. RCW 68.50.200 and 1943 c 247 s 33 are each amended to read as follows:

~~((The))~~ Human remains (~~((of a deceased person))~~) may be removed from a plot in a cemetery with the consent of the cemetery authority and the written consent of one of the following in the order named:

- (1) The surviving spouse.
- (2) The surviving children of the decedent.
- (3) The surviving parents of the decedent.
- (4) The surviving brothers or sisters of the decedent.

If the required consent cannot be obtained, permission by the superior court of the county where the cemetery is situated is sufficient: PROVIDED, That the permission shall not violate the terms of a written contract or the rules and regulations of the cemetery authority.

Sec. 145. RCW 68.50.220 and 1987 c 331 s 62 are each amended to read as follows:

RCW 68.50.200 and 68.50.210 do not apply to or prohibit the removal of any human remains from one plot to another in the same cemetery or the removal of remains by a cemetery authority from a plot for which the purchase price is past due and unpaid, to some other suitable place; nor do they apply to the disinterment of human remains upon order of court or coroner. However, a cemetery authority shall provide notification to the person cited in RCW 68.50.200 before moving human remains.

Sec. 146. RCW 68.50.230 and 1985 c 402 s 9 are each amended to read as follows:

Whenever any (~~dead~~) human (~~body~~) remains shall have been in the lawful possession of any person, firm, corporation, or association for a period of (~~one year~~) ninety days or more, (~~or whenever the incinerated remains of any dead human body have been in the lawful possession of any person, firm, corporation or association for a period of two years or more,~~) and the relatives of, or persons interested in, the deceased person shall fail, neglect, or refuse (~~for such periods of time, respectively,~~) to direct the disposition (~~to be made of such body or remains, such body or~~), the human remains may be disposed of by the person, firm, corporation, or association having such lawful possession thereof, under and in accordance with rules adopted by the cemetery board and the board of funeral directors and embalmers, not inconsistent with any statute of the state of Washington or rule (~~or regulation prescribed~~) adopted by the state board of health.

Sec. 147. RCW 68.50.240 and 1943 c 247 s 39 are each amended to read as follows:

The person in charge of any premises on which interments or cremations are made shall keep a record of all human remains interred or cremated on the premises under his or her charge, in each case stating the name of each deceased person, date of cremation or interment, and name and address of the funeral (~~director~~) establishment.

Sec. 148. RCW 68.50.270 and 1987 c 331 s 63 are each amended to read as follows:

The person or persons determined under RCW 68.50.160 as having authority to order cremation shall be entitled to possession of the cremated human remains without further intervention by the state or its political subdivisions.

Sec. 149. RCW 68.56.040 and 2003 c 53 s 313 are each amended to read as follows:

Every person, firm, or corporation who is the owner or operator of a cemetery established in violation of this act is guilty of maintaining a public nuisance, which is a gross misdemeanor~~(, and upon conviction is punishable by a fine of not less than five hundred dollars nor more than five thousand dollars or by imprisonment in a county jail for not less than one month nor more than six months, or by both; and, in addition is liable for all costs, expenses, and disbursements paid or incurred in prosecuting the case)).~~

Sec. 150. RCW 68.60.030 and 1995 c 399 s 168 are each amended to read as follows:

(1)(a) The archaeological and historical division of the department of community, trade, and economic development may grant by nontransferable certificate authority to maintain and protect an abandoned cemetery upon application made by a preservation organization which has been incorporated for the purpose of restoring, maintaining, and protecting an abandoned cemetery. Such authority shall be limited to the care, maintenance, restoration, protection, and historical preservation of the abandoned cemetery, and shall not include authority to make burials~~((, unless specifically granted by the cemetery board))~~. In order to activate a historical cemetery for burials, an applicant must apply for a certificate of authority to operate a cemetery from the state cemetery board.

(b) Those preservation and maintenance corporations that are granted authority to maintain and protect an abandoned cemetery shall be entitled to hold and possess burial records, maps, and other historical documents as may exist. Maintenance and preservation corporations that are granted authority to maintain and protect an abandoned cemetery shall not be liable to those claiming burial rights, ancestral ownership, or to any other person or organization alleging to have control by any form of conveyance not previously recorded at the county auditor's office within the county in which the abandoned cemetery exists. Such organizations shall not be liable for any reasonable alterations made during restoration work on memorials, roadways, walkways, features, plantings, or any other detail of the abandoned cemetery.

(c) Should the maintenance and preservation corporation be dissolved, the archaeological and historical division of the department of community, trade, and economic development shall revoke the certificate of authority.

(d) Maintenance and preservation corporations that are granted authority to maintain and protect an abandoned cemetery may establish care funds ~~((pursuant to chapter 68.44 RCW, and shall report in accordance with chapter 68.44 RCW to the state cemetery board))~~.

(2) Except as provided in subsection (1) of this section, the department of community, trade, and economic development may, in its sole discretion, authorize any Washington nonprofit corporation that is not expressly incorporated for the purpose of restoring, maintaining, and protecting an abandoned cemetery, to restore, maintain, and protect one or more abandoned cemeteries. The authorization may include the right of access to any burial records, maps, and other historical documents, but shall not include the right to be the permanent custodian of original records, maps, or documents. This authorization shall be granted by a nontransferable certificate of authority. Any nonprofit corporation authorized and acting under this subsection is immune from liability to the same extent as if it were a preservation organization holding a certificate of authority under subsection (1) of this section.

(3) The department of community, trade, and economic development shall establish standards and guidelines for granting certificates of authority under subsections (1) and (2) of this section to assure that any restoration, maintenance, and protection activities authorized under this subsection are conducted and supervised in an appropriate manner.

Sec. 151. RCW 70.58.005 and 1991 c 3 s 342 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Business days" means Monday through Friday except official state holidays.

(2) "Department" means the department of health.

~~((2))~~ (3) "Embalmer" means a person licensed as required in chapter 18.39 RCW and defined in RCW 18.39.010.

(4) "Funeral director" means a person licensed as required in chapter 18.39 RCW and defined in RCW 18.39.010.

(5) "Vital records" means records of birth, death, fetal death, marriage, dissolution, annulment, and legal separation, as maintained under the supervision of the state registrar of vital statistics.

Sec. 152. RCW 70.58.082 and 1997 c 108 s 1 are each amended to read as follows:

No person may prepare or issue any ~~((birth certificate))~~ vital record that purports to be an original, certified copy, or copy of a ~~((birth certificate))~~ vital record except as authorized in this chapter.

The department shall adopt rules providing for the release of paper or electronic copies of ~~((birth certificate))~~ vital records that include adequate standards for security and confidentiality, ~~((assure))~~ ensure the proper record is identified, and prevent fraudulent use of records. All certified copies of ~~((birth certificates))~~ vital records in the state must be on paper and in a format provided and approved by the department and must include security features to deter the alteration, counterfeiting, duplication, or simulation without ready detection.

Federal, state, and local governmental agencies may, upon request and with submission of the appropriate fee, be furnished copies of ~~((birth certificates))~~ vital records if the ~~((birth certificate))~~ vital record will be used for the agencies' official duties. The department may enter into agreements with offices of vital statistics outside the state for the transmission of copies of ~~((birth certificates))~~ vital records to those offices when the ~~((birth certificates))~~ vital records relate to residents of those jurisdictions and receipt of copies of ~~((birth certificates))~~ vital records from those offices. The agreement must specify the statistical and administrative purposes for which the ~~((birth certificates))~~ vital records may be used and must provide instructions for the proper retention and disposition of the copies. Copies of ~~((birth certificates))~~ vital records that are received by the department from other offices of vital statistics outside the state must be handled as provided under the agreements.

The department may disclose information that may identify any person named in any birth certificate record for research purposes as provided under chapter 42.48 RCW.

Sec. 153. RCW 70.58.160 and 1961 ex.s. c 5 s 12 are each amended to read as follows:

A certificate of every death or fetal death shall be filed with the local registrar of the district in which the death or fetal death occurred within three business days after the occurrence is known, or if the place of death or fetal death is not known, then with the local registrar of the district in which the ~~((body is))~~ human remains are found within ~~((twenty-four hours))~~ one business day thereafter. In every instance a certificate shall be filed prior to the interment or other disposition of the ~~((body:—PROVIDED, That))~~ human remains. However, a certificate of fetal death shall not be required if the period of gestation is less than twenty weeks.

Sec. 154. RCW 70.58.170 and 2000 c 133 s 1 are each amended to read as follows:

The funeral director or person ~~((in charge of interment))~~ having the right to control the disposition of the human remains under RCW 68.50.160 shall file the certificate of death or fetal death. In preparing such certificate, the funeral director or person ~~((in charge of interment))~~ having the right to control the disposition of the human remains under RCW 68.50.160 shall obtain and enter on the certificate such personal data as the certificate requires from the person or persons best qualified to supply them. He or she shall present the certificate of death to the physician, physician's assistant, or advanced registered nurse practitioner last in attendance upon the deceased, or, if the deceased died without medical attendance, to the health officer, coroner, or prosecuting attorney having jurisdiction, who shall thereupon certify the cause of death according to his or her best knowledge and belief and shall sign the certificate of death or fetal death within two business days after being presented with the certificate unless good cause for not signing the certificate within the two business days can be established. He or she shall present the certificate of fetal death to the physician, physician's assistant, advanced registered nurse practitioner, midwife, or other person in attendance at the fetal death, who shall certify the fetal death and such medical data pertaining thereto as he or she can furnish.

Sec. 155. RCW 70.58.180 and 2000 c 133 s 2 are each amended to read as follows:

If the death occurred without medical attendance, the funeral director or person ~~((in charge of interment))~~ having the right to control the disposition of the human remains under RCW 68.50.160 shall notify the coroner, or prosecuting attorney if there is no coroner in the county. If the circumstances suggest that the death or fetal death was caused by unlawful or unnatural causes or if there is no local health officer with jurisdiction, the coroner, or if none, the prosecuting attorney shall complete and sign the certification, noting upon the certificate that no physician, physician's assistant, or advanced registered nurse practitioner was in attendance at the time of death. In case of any death without medical attendance in which there is no suspicion of death from unlawful or unnatural causes, the local health officer or his or her deputy, the coroner and if none, the prosecuting attorney, shall complete and sign the certification, noting upon the certificate that no physician, physician's assistant, or advanced registered nurse practitioner was in attendance at the time of death, and noting the cause of death without the holding of an inquest or performing of an autopsy or post mortem,

but from statements of relatives, persons in attendance during the last sickness, persons present at the time of death or other persons having adequate knowledge of the facts.

The cause of death, the manner and mode in which death occurred, as noted by the coroner or if none, the prosecuting attorney or the health officer and incorporated in the death certificate filed with the bureau of vital statistics of the board of health shall be the legally accepted manner and mode by which the deceased came to his or her death and shall be the legally accepted cause of death.

Sec. 156. RCW 70.58.190 and 1945 c 159 s 4 are each amended to read as follows:

If the cause of death cannot be determined within three business days, the certification of its cause may be filed after the prescribed period, but the attending physician, coroner, or prosecuting attorney shall give the local registrar of the district in which the death occurred written notice of the reason for the delay, in order that a permit for the disposition of the ~~((body))~~ human remains may be issued if required.

Sec. 157. RCW 70.58.230 and 1961 ex.s. c 5 s 16 are each amended to read as follows:

It shall be unlawful for any person to inter, deposit in a vault, grave, or tomb, cremate, or otherwise dispose of, or disinter or remove from one registration district to another, or hold for more than ~~((seventy-two hours))~~ three business days after death, the ~~((body or))~~ human remains of any person whose death occurred in this state or any ~~((body))~~ human remains which shall be found in this state, without obtaining, from the local registrar of the district in which the death occurred or in which the ~~((body was))~~ human remains were found, a permit for the burial, disinterment, or removal of ~~((such body: PROVIDED, That))~~ the human remains. However, a licensed funeral director or embalmer of this state or a funeral establishment licensed in another state contiguous to Washington, with a current certificate of removal registration issued by the director of the department of licensing, may remove ~~((a body))~~ human remains from the district where the death occurred to another registration district or Oregon or Idaho without having obtained a permit but in such cases the funeral director or embalmer shall at the time of removing ~~((a body))~~ human remains file with or mail to the local registrar of the district where the death occurred a notice of removal upon a blank to be furnished by the state registrar. The notice of removal shall be signed by the funeral director or embalmer and shall contain the name and address of the local registrar with whom the certificate of death will be filed and the burial-transit permit secured. Every local registrar, accepting a death certificate and issuing a burial-transit permit for a death that occurred outside his or her district, shall be entitled to a fee of one dollar to be paid by the funeral director or embalmer at the time the death certificate is accepted and the permit is secured. It shall be unlawful for any person to bring into or transport within the state or inter, deposit in a vault, grave, or tomb, or cremate or otherwise dispose of ~~((the body or))~~ human remains of any person whose death occurred outside this state unless ~~((such body or))~~ the human remains ~~((be))~~ are accompanied by a removal or transit permit issued in accordance with the law and health regulations in force where the death occurred, or unless a special

permit for bringing ~~((such body))~~ the human remains into this state shall be obtained from the state registrar.

Sec. 158. RCW 70.58.240 and 1961 ex.s. c 5 s 17 are each amended to read as follows:

Each funeral director or person ~~((acting as such))~~ having the right to control the disposition of the human remains under RCW 68.50.160 shall obtain a certificate of death, sign and file the ~~((same))~~ certificate with the local registrar, and secure a burial-transit permit, prior to any permanent disposition of the ~~((body))~~ human remains. He or she shall obtain the personal and statistical particulars required, from the person best qualified to supply them. He or she shall present the certificate to the attending physician or in case the death occurred without any medical attendance, to the proper official for certification for the medical certificate of the cause of death and other particulars necessary to complete the record. He or she shall supply the information required relative to the date and place of disposition and he or she shall sign and present the completed certificate to the local registrar, for the issuance of a burial-transit permit. He or she shall deliver the burial permit to the sexton, or person in charge of the place of burial, before interring the ~~((body))~~ human remains; or shall attach the transit permit to the box containing the corpse, when shipped by any transportation company, and the permit shall accompany the corpse to its destination.

Sec. 159. RCW 70.58.260 and 1915 c 180 s 7 are each amended to read as follows:

It shall be unlawful for any person in charge of any premises in which bodies of deceased persons are interred, cremated, or otherwise permanently disposed of, to permit the interment, cremation, or other disposition of any body upon such premises unless it is accompanied by a burial, removal, or transit permit as ~~((hereinabove))~~ provided in this chapter. It shall be the duty of the person in charge of any such premises to, in case of the interment, cremation, or other disposition of ~~((a body))~~ human remains therein, endorse upon the permit the date and character of such disposition, over his or her signature, to return all permits so endorsed to the local registrar of ~~((his))~~ the district in which the death occurred within ten days from the date of such disposition, and to keep a record of all ~~((bodies))~~ human remains disposed of on the premises under his or her charge, stating, in each case, the name of the deceased person, if known, the place of death, the date of burial or other disposition, and the name and address of the undertaker, which record shall at all times be open to public inspection, and it shall be the duty of every undertaker, or person acting as such, when burying ~~((a body))~~ human remains in a cemetery or burial grounds having no person in charge, to sign the burial, removal, or transit permit, giving the date of burial, write across the face of the permit the words "no person in charge", and file the burial, removal, or transit permit within ten days with the registrar of the district in which the ~~((cemetery is located))~~ death occurred.

Sec. 160. RCW 70.58.390 and 1981 c 176 s 1 are each amended to read as follows:

A county coroner, medical examiner, or the prosecuting attorney having jurisdiction may ~~((issue))~~ file a certificate of presumed death when the official ~~((issuing))~~ filing the certificate determines to the best of the official's knowledge

and belief that there is sufficient circumstantial evidence to indicate that a person has in fact died in the county or in waters contiguous to the county (~~(as a result of an accident or natural disaster, such as a drowning, flood, earthquake, volcanic eruption, or similar occurrence,))~~) and that it is unlikely that the body will be recovered. The certificate shall recite, to the extent possible, the date, circumstances, and place of the death, and shall be the legally accepted fact of death.

In the event that the county in which the death occurred cannot be determined with certainty, the county coroner, medical examiner, or prosecuting attorney in the county in which the events occurred and in which the decedent was last known to be alive may (~~(issue)~~) file a certificate of presumed death under this section.

The official (~~(issuing)~~) filing the certificate of presumed death shall file the certificate with the (~~(state)~~) local registrar of (~~(vital statistics)~~) the county where the death was presumed to have occurred, and thereafter all persons and parties acting in good faith may rely thereon with acquittance.

NEW SECTION. Sec. 161. The following acts or parts of acts are each repealed:

(1) RCW 18.39.148 (Funeral establishment license—Cancellation—Hearing) and 1986 c 259 s 62, 1981 c 43 s 9, & 1977 ex.s. c 93 s 4;

(2) RCW 68.04.090 ("Crematory and columbarium") and 1943 c 247 s 9;

(3) RCW 68.04.180 ("Temporary receiving vault") and 1943 c 247 s 18;

(4) RCW 68.04.200 ("Cemetery corporation", "cemetery association", "cemetery corporation or association") and 1943 c 247 s 20;

(5) RCW 68.04.220 ("Directors," "governing body") and 1943 c 247 s 22;

(6) RCW 68.05.185 (Requirements as to crematories) and 1987 c 331 s 14 & 1943 c 247 s 56;

(7) RCW 68.20.090 (Permit required, when) and 1943 c 247 s 144;

(8) RCW 68.20.130 (Ground plans) and 1905 c 64 s 1 & 1899 c 33 s 6;

(9) RCW 68.24.175 (Inspection of records) and 1943 c 247 s 41;

(10) RCW 68.32.120 (Order of interment, when no parent or child survives) and 1943 c 247 s 100;

(11) RCW 68.36.090 (Disposition of proceeds) and 1953 c 290 s 3 & 1943 c 247 s 86;

(12) RCW 68.46.150 (Sales licenses—Qualifications) and 1979 c 21 s 40;

(13) RCW 68.50.135 (Individual's remains—Burial on island solely owned by individual, immediate family, or estate) and 1984 c 53 s 7;

(14) RCW 68.50.145 (Removing remains—Penalty) and 2003 c 53 s 309, 1992 c 7 s 45, & 1943 c 247 s 25;

(15) RCW 68.50.150 (Mutilating, disinterring human remains—Penalty) and 2003 c 53 s 310, 1992 c 7 s 46, & 1943 c 247 s 26;

(16) RCW 68.50.165 (Embalming services—When provided without charge) and 1985 c 402 s 2;

(17) RCW 68.50.180 (Right to rely on authorization—State agency funding for cremation) and 1993 c 43 s 5, 1979 c 21 s 14, & 1943 c 247 s 31;

(18) RCW 68.50.190 (Liability for damages—Limitation) and 1943 c 247 s 32; and

(19) RCW 68.50.250 (Crematory record of caskets—Penalty) and 2003 c 53 s 311 & 1943 c 247 s 57.

Passed by the Senate April 16, 2005.

Passed by the House April 6, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 366

[Substitute Senate Bill 5939]

IDENTITY THEFT—POLICE REPORTS

AN ACT Relating to providing police reports to victims of identity theft; and amending RCW 19.182.160.

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

Sec. 1. RCW 19.182.160 and 2001 c 217 s 6 are each amended to read as follows:

(1) Within thirty days of receipt of proof of the consumer's identification and a copy of a (~~filed~~) police report, filed by the consumer, evidencing the consumer's claim to be a victim of a violation of RCW 9.35.020, a consumer reporting agency shall permanently block reporting any information the consumer identifies on his or her consumer report is a result of a violation of RCW 9.35.020, so that the information cannot be reported, except as provided in subsection (2) of this section. The consumer reporting agency shall promptly notify the furnisher of the information that a police report has been filed, that a block has been requested, and the effective date of the block.

(2) A consumer reporting agency may decline to block or may rescind any block of consumer information if, in the exercise of good faith and reasonable judgment, the consumer reporting agency believes:

(a) The information was blocked due to a misrepresentation of fact by the consumer relevant to the request to block under this section;

(b) The consumer agrees that the blocked information or portions of the blocked information were blocked in error; or

(c) The consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions or the consumer should have known that he or she obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions.

(3) If the block of information is declined or rescinded under this section, the consumer shall be notified promptly in the same manner as consumers are notified of the reinsertion of information pursuant to section 611 of the fair credit reporting act, 15 U.S.C. Sec. 1681I, as amended. The prior presence of the blocked information in the consumer reporting agency's file on the consumer is not evidence of whether the consumer knew or should have known that he or she obtained possession of any goods, services, or moneys.

(4) In order to facilitate the exercise of a consumer's right to block information in his or her consumer report, all police and sheriff's departments in Washington state shall provide to the consumer, at the consumer's request, a copy of any police report, filed by the consumer, evidencing the consumer's claim to be a victim of a violation of RCW 9.35.020.

Nothing in this section shall be construed to require a law enforcement agency to investigate reports claiming identity theft.

Passed by the Senate April 16, 2005.

Passed by the House April 5, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 367

[Senate Bill 5948]

UNCLAIMED PROPERTY

AN ACT Relating to unclaimed property; amending RCW 63.29.020, 63.29.180, 63.29.190, 63.29.220, and 63.29.280; and repealing RCW 63.29.033.

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

Sec. 1. RCW 63.29.020 and 2004 c 168 s 14 are each amended to read as follows:

(1) Except as otherwise provided by this chapter, all intangible property, including any income or increment derived therefrom, less any lawful charges, that is held, issued, or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable is presumed abandoned.

(2) Property, with the exception of unredeemed Washington state lottery tickets and unrepresented winning parimutuel tickets, is payable and distributable for the purpose of this chapter notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment.

(3) This chapter does not apply to claims drafts issued by insurance companies representing offers to settle claims unliquidated in amount or settled by subsequent drafts or other means.

(4) This chapter does not apply to property covered by chapter 63.26 RCW.

(5) This chapter does not apply to used clothing, umbrellas, bags, luggage, or other used personal effects if such property is disposed of by the holder as follows:

(a) In the case of personal effects of negligible value, the property is destroyed; or

(b) The property is donated to a bona fide charity.

(6) This chapter does not apply to a gift certificate subject to the prohibition against expiration dates under RCW 19.240.020 or to a gift certificate subject to RCW 19.240.030 through 19.240.060. However, this chapter applies to gift certificates presumed abandoned under RCW 63.29.110.

(7) This chapter does not apply to excess proceeds held by counties, cities, towns, and other municipal or quasi-municipal corporations from foreclosures for delinquent property taxes, assessments, or other liens.

Sec. 2. RCW 63.29.180 and 2003 c 237 s 2 are each amended to read as follows:

(1) The department shall cause a notice to be published not later than November 1st, immediately following the report required by RCW 63.29.170 in a newspaper of general circulation (~~in the county of~~) within this state (~~in which is located the last known address of any person to be named in the notice. If no address is listed or the address is outside this state, the notice must be published in the county in which the holder of the property has its principal place~~

~~of business within this state)), which the department determines is most likely to give notice to the apparent owner of the property.~~

(2) The published notice must be entitled "~~(of Names of Persons Appearing)~~ to ~~((be))~~ Owners of ~~((Abandoned))~~ Unclaimed Property" and contain(~~(:~~

~~(a) The names in alphabetical order and last known address, if any, of persons listed in the report and entitled to notice within the county as specified in subsection (1) of this section; and~~

~~(b) A statement that information concerning the property and the name and last known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the department.~~

~~(3) The department is not required to publish in the notice any items of seventy-five dollars or less unless the department considers their publication to be in the public interest)) a summary explanation of how owners may obtain information about unclaimed property reported to the department.~~

~~((4)) (3) Not later than September 1st, immediately following the report required by RCW 63.29.170, the department shall mail a notice to each person whose last known address is listed in the report and who appears to be entitled to property with a value of more than seventy-five dollars presumed abandoned under this chapter and any beneficiary of a life or endowment insurance policy or annuity contract for whom the department has a last known address.~~

~~((5)) (4) The mailed notice must contain:~~

~~(a) A statement that, according to a report filed with the department, property is being held to which the addressee appears entitled; and~~

~~(b) The name ~~((and last known address))~~ of the person ~~((holding))~~ reporting the property and ~~((any necessary information regarding the changes of name and last known address of the holder))~~ the type of property described in the report.~~

~~((6)) (5) This section is not applicable to sums payable on travelers checks, money orders, and other written instruments presumed abandoned under RCW 63.29.040.~~

Sec. 3. RCW 63.29.190 and 1993 c 498 s 8 are each amended to read as follows:

(1) Except as otherwise provided in subsections (2) and (3) of this section, a person who is required to file a report under RCW 63.29.170 shall pay or deliver to the department all abandoned property required to be reported at the time of filing the report.

(2) Counties, cities, towns, and other municipal and quasi-municipal corporations that hold funds representing warrants canceled pursuant to RCW 36.22.100 and 39.56.040, uncashed checks, ~~((excess proceeds from property tax and irrigation district foreclosures,))~~ and property tax overpayments or refunds may retain the funds until the owner notifies them and establishes ownership as provided in RCW 63.29.135. Counties, cities, towns, or other municipal or quasi-municipal corporations shall provide to the department a report of property it is holding pursuant to this section. The report shall identify the property and owner in the manner provided in RCW 63.29.170 and the department shall publish the information as provided in RCW 63.29.180.

(3) The contents of a safe deposit box or other safekeeping repository presumed abandoned under RCW 63.29.160 and reported under RCW 63.29.170

shall be paid or delivered to the department within six months after the final date for filing the report required by RCW 63.29.170.

If the owner establishes the right to receive the abandoned property to the satisfaction of the holder before the property has been delivered or it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property to the department, and the property will no longer be presumed abandoned. In that case, the holder shall file with the department a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

(4) The holder of an interest under RCW 63.29.100 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the department. Upon delivery of a duplicate certificate to the department, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability of every kind in accordance with RCW 63.29.200 to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the department, for any losses or damages resulting to any person by the issuance and delivery to the department of the duplicate certificate.

Sec. 4. RCW 63.29.220 and 1996 c 45 s 3 are each amended to read as follows:

(1) Except as provided in subsections (2)(~~(7)~~) and (3)(~~(7) and (6)~~) of this section the department, within five years after the receipt of abandoned property, shall sell it to the highest bidder at public sale in whatever city in the state affords in the judgment of the department the most favorable market for the property involved. The department may decline the highest bid and reoffer the property for sale if in the judgment of the department the bid is insufficient. If in the judgment of the department the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any sale held under this section must be preceded by a single publication of notice, at least three weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

(2) Securities listed on an established stock exchange must be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the department considers advisable. All securities may be sold over the counter at prices prevailing at the time of the sale, or by any other method the department deems advisable.

(3) Unless the department considers it to be in the best interest of the state to do otherwise, all securities, other than those presumed abandoned under RCW 63.29.100, delivered to the department must be held for at least one year before being sold.

(4) Unless the department considers it to be in the best interest of the state to do otherwise, all securities presumed abandoned under RCW 63.29.100 and delivered to the department must be held for at least three years before being sold. If the department sells any securities delivered pursuant to RCW 63.29.100 before the expiration of the three-year period, any person making a claim pursuant to this chapter before the end of the three-year period is entitled to either the proceeds of the sale of the securities or the market value of the

securities at the time the claim is made, whichever amount is greater, less any deduction for fees pursuant to RCW 63.29.230(2). A person making a claim under this chapter after the expiration of this period is entitled to receive either the securities delivered to the department by the holder, if they still remain in the hands of the department, or the proceeds received from sale, less any amounts deducted pursuant to RCW 63.29.230(2), but no person has any claim under this chapter against the state, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the department.

(5) The purchaser of property at any sale conducted by the department pursuant to this chapter takes the property free of all claims of the owner or previous holder thereof and of all persons claiming through or under them. The department shall execute all documents necessary to complete the transfer of ownership.

~~((6) The department shall not sell any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest.))~~

Sec. 5. RCW 63.29.280 and 1983 c 179 s 28 are each amended to read as follows:

If the department determines after investigation that any property delivered under this chapter has insubstantial commercial value, the department may destroy or otherwise dispose of the property at any time. No action or proceeding may be maintained against the state or any officer or against the holder for or on account of any action taken by the department pursuant to this section. ~~((Documents which are to be destroyed shall be copied on film and retained for ten years.))~~ Original documents which the department has identified to be destroyed and which have legal significance or historical interest may be surrendered to the state historical museum or to the state library.

NEW SECTION. **Sec. 6.** RCW 63.29.033 (Property presumed abandoned—State or subdivision is originator or issuer) and 1992 c 48 s 1 are each repealed.

Passed by the Senate April 7, 2005.

Passed by the House April 19, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 368

[Substitute Senate Bill 6043]

PERSONAL INFORMATION—NOTICE OF SECURITY BREACHES

AN ACT Relating to breaches of security that compromise personal information; adding a new section to chapter 42.17 RCW; and adding a new chapter to Title 19 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 42.17 RCW under the subchapter heading "public records" to read as follows:

(1)(a) Any agency that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to

any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (3) of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) For purposes of this section, "agency" means the same as in RCW 42.17.020.

(2) Any agency that maintains computerized data that includes personal information that the agency does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(4) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system when the personal information is not used or subject to further unauthorized disclosure.

(5) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

- (a) Social security number;
- (b) Driver's license number or Washington identification card number; or
- (c) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(6) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(7) For purposes of this section and except under subsection (8) of this section, notice may be provided by one of the following methods:

- (a) Written notice;
- (b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. Sec. 7001; or
- (c) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

(i) E-mail notice when the agency has an e-mail address for the subject persons;

(ii) Conspicuous posting of the notice on the agency's web site page, if the agency maintains one; and

(iii) Notification to major statewide media.

(8) An agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this section is in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(9) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

(10)(a) Any customer injured by a violation of this section may institute a civil action to recover damages.

(b) Any business that violates, proposes to violate, or has violated this section may be enjoined.

(c) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.

(d) An agency shall not be required to disclose a technical breach of the security system that does not seem reasonably likely to subject customers to a risk of criminal activity.

NEW SECTION. Sec. 2. (1) Any person or business that conducts business in this state and that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (3) of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(2) Any person or business that maintains computerized data that includes personal information that the person or business does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(4) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is not a breach of the security of the system when the personal information is not used or subject to further unauthorized disclosure.

(5) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

- (a) Social security number;
- (b) Driver's license number or Washington identification card number; or
- (c) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(6) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(7) For purposes of this section and except under subsection (8) of this section, "notice" may be provided by one of the following methods:

- (a) Written notice;
- (b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. Sec. 7001; or
- (c) Substitute notice, if the person or business demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the person or business does not have sufficient contact information. Substitute notice shall consist of all of the following:

- (i) E-mail notice when the person or business has an e-mail address for the subject persons;
- (ii) Conspicuous posting of the notice on the web site page of the person or business, if the person or business maintains one; and
- (iii) Notification to major statewide media.

(8) A person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this section is in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(9) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

(10)(a) Any customer injured by a violation of this section may institute a civil action to recover damages.

(b) Any business that violates, proposes to violate, or has violated this section may be enjoined.

(c) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.

(d) A person or business under this section shall not be required to disclose a technical breach of the security system that does not seem reasonably likely to subject customers to a risk of criminal activity.

NEW SECTION. Sec. 3. Section 2 of this act constitutes a new chapter in Title 19 RCW.

Passed by the Senate March 8, 2005.

Passed by the House April 12, 2005.

Approved by the Governor May 10, 2005.
 Filed in Office of Secretary of State May 10, 2005.

CHAPTER 369

[Engrossed Substitute House Bill 1031]

PROBLEM GAMBLING

AN ACT Relating to problem gambling; amending RCW 43.20A.890, 67.70.340, 82.04.350, 82.04.290, and 9.46.071; adding a new section to chapter 43.20A RCW; adding new sections to chapter 82.04 RCW; creating a new section; providing an effective date; and declaring an emergency.

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

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

(a) The costs to society of problem and pathological gambling include family disintegration, criminal activity, and financial insolvencies;

(b) Problem and pathological gamblers suffer a higher incidence of addictive disorders such as alcohol and substance abuse;

(c) Residents of Washington have the opportunity to participate in a variety of legal gambling activities operated by the state, by federally recognized tribes, and by private businesses and nonprofit organizations; and

(d) A 1999 study found that five percent of adult Washington residents and eight percent of adolescents could be classified as problem gamblers during their lifetimes, and that more than one percent of adults have been afflicted with pathological gambling.

(2) The legislature intends to provide long-term, dedicated funding for public awareness and education regarding problem and pathological gambling, training in its identification and treatment, and treatment services for problem and pathological gamblers and, as clinically appropriate, members of their families.

Sec. 2. RCW 43.20A.890 and 2002 c 349 s 4 are each amended to read as follows:

(1) A program for (a) the prevention and treatment of ((pathological)) problem and pathological gambling; and (b) the training of professionals in the identification and treatment of problem and pathological gambling is established within the department of social and health services, to be administered by a qualified person who has training and experience in ((handling pathological)) problem gambling ((problems)) or the organization and administration of treatment services for persons suffering from ((pathological)) problem gambling ((problems)). The department may contract for any services provided under the program. The department shall track program participation and client outcomes.

(2) To receive treatment under subsection (1) of this section, a person must:

(a) Need treatment for ((pathological)) problem or pathological gambling, or because of the problem or pathological gambling of a family member, but be unable to afford treatment; and

(b) Be targeted by the department of social and health services as ((to be)) being most amenable to treatment.

(3) Treatment under this section is ((limited to)) available only to the extent of the funds appropriated or otherwise made available to the department of social and health services for this purpose. The department may solicit and accept for use any gift of money or property made by will or otherwise, and any

grant of money, services, or property from the federal government, any tribal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies or any tribal government in making an application for any grant.

~~(4) The department of social and health services shall ((report to the legislature by September 1, 2002, with a plan for implementing this section))~~ establish an advisory committee to assist it in designing, managing, and evaluating the effectiveness of the program established in this section. The advisory committee shall give due consideration in the design and management of the program that persons who hold licenses or contracts issued by the gambling commission, horse racing commission, and lottery commission are not excluded from, or discouraged from, applying to participate in the program. The committee shall include, at a minimum, persons knowledgeable in the field of problem and pathological gambling and persons representing tribal gambling, privately owned nontribal gambling, and the state lottery.

~~(5) ((The department of social and health services shall report to the legislature by November 1, 2003, on program participation and client outcomes.))~~ For purposes of this section, "pathological gambling" is a mental disorder characterized by loss of control over gambling, progression in preoccupation with gambling and in obtaining money to gamble, and continuation of gambling despite adverse consequences. "Problem gambling" is an earlier stage of pathological gambling which compromises, disrupts, or damages family or personal relationships or vocational pursuits.

NEW SECTION. Sec. 3. A new section is added to chapter 43.20A RCW to read as follows:

The problem gambling account is created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of the program established under RCW 43.20A.890.

Sec. 4. RCW 67.70.340 and 2002 c 349 s 3 are each amended to read as follows:

(1) The legislature recognizes that creating a shared game lottery could result in less revenue being raised by the existing state lottery ticket sales. The legislature further recognizes that the two funds most impacted by this potential event are the student achievement fund and the education construction account. Therefore, it is the intent of the legislature to use some of the proceeds from the shared game lottery to make up the difference that the potential state lottery revenue loss would have on the student achievement fund and the education construction account. The legislature further intends to use some of the proceeds from the shared game lottery to fund programs and services related to problem and pathological gambling.

(2) The student achievement fund and the education construction account are expected to collectively receive one hundred two million dollars annually from state lottery games other than the shared game lottery. For fiscal year 2003 and thereafter, if the amount of lottery revenues earmarked for the student achievement fund and the education construction account ~~((are))~~ is less than one hundred two million dollars, the commission, after making the transfer required under subsection (3) of this section, must transfer sufficient moneys from

revenues derived from the shared game lottery into the student achievement fund and the education construction account to bring the total revenue up to one hundred two million dollars. The funds transferred from the shared game lottery account under this subsection must be divided between the student achievement fund and the education construction account in a manner consistent with RCW 67.70.240(3).

(3) ~~((For fiscal year 2003, the commission shall transfer from revenues derived from the shared game lottery to the violence reduction and drug enforcement account under RCW 69.50.520 five hundred thousand dollars exclusively for the treatment of pathological gambling as prescribed by RCW 67.70.350-))~~ (a) The commission shall transfer, from revenue derived from the shared game lottery, to the problem gambling account created in section 3 of this act, an amount equal to the percentage specified in (b) of this subsection of net receipts. For purposes of this subsection, "net receipts" means the difference between (i) revenue received from the sale of lottery tickets or shares and revenue received from the sale of shared game lottery tickets or shares; and (ii) the sum of payments made to winners.

(b) In fiscal year 2006, the percentage to be transferred to the problem gambling account is one-tenth of one percent. In fiscal year 2007 and subsequent fiscal years, the percentage to be transferred to the problem gambling account is thirteen one-hundredths of one percent.

(4) The remaining net revenues, if any, in the shared game lottery account after the transfers pursuant to this section shall be deposited into the general fund.

NEW SECTION, Sec. 5. A new section is added to chapter 82.04 RCW, to be codified between RCW 82.04.220 and 82.04.310, to read as follows:

(1) Upon every person engaging within this state in the business of operating contests of chance; as to such persons, the amount of tax with respect to the business of operating contests of chance is equal to the gross income of the business derived from contests of chance multiplied by the rate of 1.5 percent.

(2) An additional tax is imposed on those persons subject to tax in subsection (1) of this section. The amount of the additional tax with respect to the business of operating contests of chance is equal to the gross income of the business derived from contests of chance multiplied by the rate of 0.1 percent through June 30, 2006, and 0.13 percent thereafter. The money collected under this subsection (2) shall be deposited in the problem gambling account created in section 3 of this act. This subsection does not apply to businesses operating contests of chance when the gross income from the operation of contests of chance is less than fifty thousand dollars per year.

(3) For the purpose of this section, "contests of chance" means any contests, games, gaming schemes, or gaming devices, other than the state lottery as defined in RCW 67.70.010, in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor in the outcome. The term includes social card games, bingo, raffle, and punchboard games, and pull-tabs as defined in chapter 9.46 RCW. The term does not include race meets for the conduct of which a license must be secured from the Washington horse racing commission, or "amusement game" as defined in RCW 9.46.0201.

(4) "Gross income of the business" does not include the monetary value or actual cost of any prizes that are awarded, amounts paid to players for winning wagers, accrual of prizes for progressive jackpot contests, or repayment of amounts used to seed guaranteed progressive jackpot prizes.

NEW SECTION. Sec. 6. A new section is added to chapter 82.04 RCW to read as follows:

(1) Upon every person engaging within this state in the business of conducting race meets for the conduct of which a license must be secured from the Washington horse racing commission; as to such persons, the amount of tax with respect to the business of parimutuel wagering is equal to the gross income of the business derived from parimutuel wagering multiplied by the rate of 0.1 percent through June 30, 2006, and 0.13 percent thereafter. The money collected under this section shall be deposited in the problem gambling account created in section 3 of this act.

(2) For purposes of this section, "gross income of the business" does not include amounts paid to players for winning wagers, or taxes imposed or other distributions required under chapter 67.16 RCW.

(3) The tax imposed under this section is in addition to any tax imposed under chapter 67.16 RCW.

Sec. 7. RCW 82.04.350 and 1961 c 15 s 82.04.350 are each amended to read as follows:

Except as provided in section 6(1) of this act, this chapter shall not apply to any person in respect to the business of conducting race meets for the conduct of which a license must be secured from the horse racing commission.

Sec. 8. RCW 82.04.290 and 2004 c 174 s 2 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of providing international investment management services, as to such persons, the amount of tax with respect to such business shall be equal to the gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.

(2) Upon every person engaging within this state in any business activity other than or in addition to ~~((those enumerated in RCW 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, 82.04.298, 82.04.2905, 82.04.280, 82.04.2907, 82.04.272, 82.04.2906, and 82.04.2908, and))~~ an activity taxed explicitly under another section in this chapter or subsection (1) of this section; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of 1.5 percent.

(3) Subsection (2) of this section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his principal or supplier to be used for informational, educational and promotional purposes shall not be considered a part of the agent's remuneration or commission and shall not be subject to taxation under this section.

Sec. 9. RCW 9.46.071 and 2003 c 75 s 1 are each amended to read as follows:

(1) The legislature recognizes that some individuals in this state are problem or ~~((compulsive))~~ pathological gamblers. Because the state promotes and regulates gambling through the activities of the state lottery commission, the Washington horse racing commission, and the Washington state gambling commission, the state has the responsibility to continue to provide resources for the support of services for problem and ~~((compulsive))~~ pathological gamblers. Therefore, ~~((at a minimum,))~~ the Washington state gambling commission, the Washington horse racing commission, and the state lottery commission shall jointly develop informational signs concerning problem and ~~((compulsive))~~ pathological gambling which include a toll-free hot line number for problem and ~~((compulsive))~~ pathological gamblers. The signs shall be placed in the establishments of gambling licensees, horse racing licensees, and lottery retailers. In addition, the Washington state gambling commission, the Washington horse racing commission, and the state lottery commission may also contract with other qualified entities to provide public awareness, training, and other services to ensure the intent of this section is fulfilled.

(2)(a) During any period in which section 5(2) of this act is in effect, the commission may not increase fees payable by licensees under its jurisdiction for the purpose of funding services for problem and pathological gambling. Any fee imposed or increased by the commission, for the purpose of funding these services, before the effective date of this section shall have no force and effect after the effective date of this section.

(b) During any period in which section 5(2) of this act is not in effect:

(i) The commission, the Washington state horse racing commission, and the state lottery commission may contract for services, in addition to those authorized in subsection (1) of this section, to assist in providing for treatment of problem and pathological gambling; and

(ii) The commission may increase fees payable by licenses under its jurisdiction for the purpose of funding the services authorized in this section for problem and pathological gamblers.

NEW SECTION. Sec. 10. 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. 11. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005.

Passed by the House April 18, 2005.

Passed by the Senate April 6, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 370

[Engrossed Substitute House Bill 1044]

PENSION FUNDING METHODOLOGY

AN ACT Relating to pension funding methodology; amending RCW 41.45.060, 41.45.010, and 41.45.010; reenacting and amending RCW 41.45.060; adding a new section to chapter 41.45

RCW; decodifying RCW 41.45.054; providing effective dates; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 41.45.060 and 2003 c 294 s 10 and 2003 c 92 s 3 are each reenacted and amended to read as follows:

(1) The state actuary shall provide actuarial valuation results based on the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted by the council under RCW 41.45.030 or 41.45.035.

(2) Not later than September 30, 2002, and every two years thereafter, consistent with the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035, the council shall adopt and may make changes to:

(a) A basic state contribution rate for the law enforcement officers' and fire fighters' retirement system plan 1;

(b) Basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system to be used in the ensuing biennial period; and

(c) A basic employer contribution rate for the school employees' retirement system for funding both that system and the public employees' retirement system plan 1.

The contribution rates adopted by the council shall be subject to revision by the legislature.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1 not later than June 30, 2024; and

(b) To also continue to fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, and the school employees' retirement system plans 2 and 3 in accordance with RCW 41.45.061, 41.45.067, and this section.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan 2 and 3 employer contribution rate and a Washington state patrol retirement system contribution rate.

(5) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted. The rates shall be effective for the ensuing biennial period, subject to any legislative modifications.

(6) The director of the department of retirement systems shall collect the rates established in RCW 41.45.053 through June 30, 2003. Thereafter, the director shall collect those rates adopted by the council. The rates established in ~~((RCW 41.45.053))~~ section 6 of this act, or by the council, shall be subject to revision by the council.

Sec. 2. RCW 41.45.060 and 2004 c 242 s 39 are each amended to read as follows:

(1) The state actuary shall provide actuarial valuation results based on the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted by the council under RCW 41.45.030 or 41.45.035.

(2) Not later than September 30, 2002, and every two years thereafter, consistent with the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035, the council shall adopt and may make changes to:

(a) A basic state contribution rate for the law enforcement officers' and fire fighters' retirement system plan 1;

(b) Basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system to be used in the ensuing biennial period; and

(c) A basic employer contribution rate for the school employees' retirement system and the public safety employees' retirement system for funding both those systems and the public employees' retirement system plan 1.

The contribution rates adopted by the council shall be subject to revision by the legislature.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1 not later than June 30, 2024; and

(b) To fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the public safety employees' retirement system plan 2, and the school employees' retirement system plans 2 and 3 in accordance with RCW 41.45.061, 41.45.067, and this section.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan 2 and 3 employer contribution rate and a Washington state patrol retirement system contribution rate.

(5) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted. The rates shall be effective for the ensuing biennial period, subject to any legislative modifications.

(6) The director shall collect those rates adopted by the council. The rates established in ((RCW 41.45.054)) section 6 of this act, or by the council, shall be subject to revision by the legislature.

Sec. 3. RCW 41.45.010 and 2002 c 26 s 3 are each amended to read as follows:

It is the intent of the legislature to provide a dependable and systematic process for funding the benefits provided to members and retirees of the public employees' retirement system, chapter 41.40 RCW; the teachers' retirement system, chapter 41.32 RCW; the law enforcement officers' and fire fighters' retirement systems, chapter 41.26 RCW; the school employees' retirement system, chapter 41.35 RCW; and the Washington state patrol retirement system, chapter 43.43 RCW.

The legislature finds that the funding status of the state retirement systems has improved dramatically since 1989. Because of the big reduction in unfunded pension liabilities, it is now prudent to adjust the long-term economic

assumptions that are used in the actuarial studies conducted by the state actuary. The legislature finds that it is reasonable to increase the salary growth assumption in light of Initiative Measure No. 732, to increase the investment return assumption in light of the asset allocation policies and historical returns of the state investment board, and to reestablish June 30, 2024, as the target date to achieve full funding of all liabilities in the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1.

The funding process established by this chapter is intended to achieve the following goals:

(1) To continue to fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the school employees' retirement system plans 2 and 3, and the law enforcement officers' and fire fighters' retirement system plan 2 as provided by law;

(2) To fully amortize the total costs of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1, not later than June 30, 2024;

(3) To establish ((predictable)) long-term employer contribution rates which will remain a relatively ((constant)) predictable proportion of the future state budgets; and

(4) To fund, to the extent feasible, benefit increases for plan 1 members and all benefits for plan 2 and 3 members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service.

Sec. 4. RCW 41.45.010 and 2004 c 242 s 36 are each amended to read as follows:

It is the intent of the legislature to provide a dependable and systematic process for funding the benefits provided to members and retirees of the public employees' retirement system, chapter 41.40 RCW; the teachers' retirement system, chapter 41.32 RCW; the law enforcement officers' and fire fighters' retirement systems, chapter 41.26 RCW; the school employees' retirement system, chapter 41.35 RCW; the public safety employees' retirement system, chapter 41.37 RCW; and the Washington state patrol retirement system, chapter 43.43 RCW.

The legislature finds that the funding status of the state retirement systems has improved dramatically since 1989. Because of the big reduction in unfunded pension liabilities, it is now prudent to adjust the long-term economic assumptions that are used in the actuarial studies conducted by the state actuary. The legislature finds that it is reasonable to increase the salary growth assumption in light of Initiative Measure No. 732, to increase the investment return assumption in light of the asset allocation policies and historical returns of the state investment board, and to reestablish June 30, 2024, as the target date to achieve full funding of all liabilities in the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1.

The funding process established by this chapter is intended to achieve the following goals:

(1) To fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the school employees' retirement

system plans 2 and 3, the public safety employees' retirement system plan 2, and the law enforcement officers' and fire fighters' retirement system plan 2 as provided by law;

(2) To fully amortize the total costs of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1, not later than June 30, 2024;

(3) To establish (~~(predictable)~~) long-term employer contribution rates which will remain a relatively (~~(constant)~~) predictable proportion of the future state budgets; and

(4) To fund, to the extent feasible, benefit increases for plan 1 members and all benefits for plan 2 and 3 members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service.

NEW SECTION. **Sec. 5.** RCW 41.45.054 is decodified, effective September 1, 2005.

NEW SECTION. **Sec. 6.** A new section is added to chapter 41.45 RCW to read as follows:

The basic employer and state contribution rates and required plan 2 member contribution rates are changed to reflect the 2003 actuarial valuation and actuarial projections of the 2005 actuarial valuation, both of which incorporate the 2002 actuarial experience study conducted by the office of the state actuary for 1995-2000. This contribution rate schedule departs from the normal biennial process for setting contribution rates by requiring annual increases in rates during the 2005-2007 biennium, and by requiring annual rates to be adopted by the pension funding council for the 2007-2009 biennium. The rates are lower in the 2005-2007 biennium than required by the 2003 actuarial valuation and will be higher in the 2007-2009 biennium than required by the projected 2005 actuarial valuation.

Upon completion of the 2005 actuarial valuation, the pension funding council and the state actuary shall review the appropriateness of the contribution rates for 2007-2008 and 2008-2009 and by September 30, 2006, the pension funding council shall adopt contribution rates to complete the four-year phase-in schedule, adjusted for any material changes in benefits or actuarial assumptions, methods, or experience. This contribution rate schedule also requires a departure from the allocation formula for contributions in RCW 41.45.050, suspension of payments on the unfunded liability in the public employees' retirement system and the teachers' retirement system during the 2005-2007 biennium, and a delay in the recognition of the cost of future gain-sharing benefits until the 2007-2009 biennium.

(1) Beginning July 1, 2005, the following employer contribution rate shall be charged: 2.25 percent for the public employees' retirement system.

(2) Beginning September 1, 2005, the following employer contribution rates shall be charged:

(a) 2.75 percent for the school employees' retirement system; and

(b) 2.73 percent for the teachers' retirement system.

(3) Beginning July 1, 2005, the following member contribution rate shall be charged: 2.25 percent for the public employees' retirement system plan 2.

(4) Beginning September 1, 2005, the following member contribution rates shall be charged:

- (a) 2.75 percent for the school employees' retirement system plan 2; and
- (b) 2.48 percent for the teachers' retirement system plan 2.

(5) The contribution rates in subsections (1) through (4) of this section shall be collected through June 30, 2006, for the public employees' retirement system, and August 31, 2006, for the school employees' retirement system and the teachers' retirement system.

(6) Beginning July 1, 2006, the following employer contribution rate shall be charged: 3.50 percent for the public employees' retirement system.

(7) Beginning September 1, 2006, the following employer contribution rates shall be charged:

- (a) 3.75 percent for the school employees' retirement system; and
- (b) 3.25 percent for the teachers' retirement system.

(8) Beginning July 1, 2006, the following member contribution rate shall be charged: 3.50 percent for the public employees' retirement system plan 2.

(9) Beginning September 1, 2006, the following member contribution rates shall be charged:

- (a) 3.75 percent for the school employees' retirement system plan 2; and
- (b) 3.00 percent for the teachers' retirement system plan 2.

(10) During the 2005 interim, the select committee on pension policy shall study the options available to the legislature for addressing the liability associated with future gain-sharing benefits. These options may include, but shall not be limited to, repealing, delaying, or suspending the gain-sharing provisions in law; making gain-sharing discretionary; or replacing gain-sharing benefits with other benefits such as plan choice, employer defined contributions, retirement eligibility enhancements, and postretirement adjustments. The select committee on pension policy shall report the findings and recommendations of its study to the legislative fiscal committees by no later than December 15, 2005.

NEW SECTION. Sec. 7. Sections 1, 3, and 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2005.

NEW SECTION. Sec. 8. Sections 2 and 4 of this act take effect July 1, 2006.

NEW SECTION. Sec. 9. Sections 1 and 3 of this act expire July 1, 2006.

Passed by the House April 21, 2005.

Passed by the Senate April 23, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 371

[Substitute House Bill 1058]

MENTAL HEALTH—MINORS

AN ACT Relating to mental health treatment for minors; amending RCW 71.34.042, 71.34.052, and 71.34.270; adding new sections to chapter 71.34 RCW; creating a new section; and recodifying RCW 71.34.010, 71.34.020, 71.34.140, 71.34.032, 71.34.250, 71.34.280, 71.34.260, 71.34.240, 71.34.230, 71.34.210, 71.34.200, 71.34.225, 71.34.220, 71.34.160, 71.34.190, 71.34.170,

71.34.290, 71.34.056, 71.34.800, 71.34.805, 71.34.810, 71.34.015, 71.34.027, 71.34.130, 71.34.270, 71.34.042, 71.34.044, 71.34.046, 71.34.030, 71.34.052, 71.34.025, 71.34.162, 71.34.164, 71.34.035, 71.34.054, 71.34.040, 71.34.050, 71.34.060, 71.34.070, 71.34.080, 71.34.090, 71.34.100, 71.34.120, 71.34.110, 71.34.150, 71.34.180, 71.34.900, and 71.34.901.

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

NEW SECTION. Sec. 1. The legislature finds that, despite explicit statements in statute that the consent of a minor child is not required for a parent-initiated admission to inpatient or outpatient mental health treatment, treatment providers consistently refuse to accept a minor aged thirteen or over if the minor does not also consent to treatment. The legislature intends that the parent-initiated treatment provisions, with their accompanying due process provisions for the minor, be made fully available to parents.

Sec. 2. RCW 71.34.042 and 1998 c 296 s 14 are each amended to read as follows:

(1) A minor thirteen years or older may admit himself or herself to an evaluation and treatment facility for inpatient mental treatment, without parental consent. The admission shall occur only if the professional person in charge of the facility concurs with the need for inpatient treatment. Parental authorization is required for inpatient treatment of a minor under the age of thirteen.

(2) When, in the judgment of the professional person in charge of an evaluation and treatment facility, there is reason to believe that a minor is in need of inpatient treatment because of a mental disorder, and the facility provides the type of evaluation and treatment needed by the minor, and it is not feasible to treat the minor in any less restrictive setting or the minor's home, the minor may be admitted to an evaluation and treatment facility.

(3) Written renewal of voluntary consent must be obtained from the applicant no less than once every twelve months. The minor's need for continued inpatient treatments shall be reviewed and documented no less than every one hundred eighty days.

NEW SECTION. Sec. 3. A new section is added to chapter 71.34 RCW to read as follows:

A minor child shall have no cause of action against an evaluation and treatment facility, inpatient facility, or provider of outpatient mental health treatment for admitting or accepting the minor in good faith for evaluation or treatment under RCW 71.34.052 or 71.34.054 based solely upon the fact that the minor did not consent to evaluation or treatment if the minor's parent has consented to the evaluation or treatment.

Sec. 4. RCW 71.34.052 and 1998 c 296 s 17 are each amended to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to an evaluation and treatment facility or an inpatient facility licensed under chapter 70.41, 71.12, or 72.23 RCW and request that the professional person as defined in RCW 71.05.020(24) examine the minor to determine whether the minor has a mental disorder and is in need of inpatient treatment.

(2) The consent of the minor is not required for admission, evaluation, and treatment if the parent brings the minor to the facility.

(3) An appropriately trained professional person may evaluate whether the minor has a mental disorder. The evaluation shall be completed within twenty-

four hours of the time the minor was brought to the facility, unless the professional person determines that the condition of the minor necessitates additional time for evaluation. In no event shall a minor be held longer than seventy-two hours for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the minor to receive inpatient treatment, the minor may be held for treatment. The facility shall limit treatment to that which the professional person determines is medically necessary to stabilize the minor's condition until the evaluation has been completed. Within twenty-four hours of completion of the evaluation, the professional person shall notify the department if the child is held for treatment and of the date of admission.

(4) No provider is obligated to provide treatment to a minor under the provisions of this section except that no provider may refuse to treat a minor under the provisions of this section solely on the basis that the minor has not consented to the treatment. No provider may admit a minor to treatment under this section unless it is medically necessary.

(5) No minor receiving inpatient treatment under this section may be discharged from the facility based solely on his or her request.

(6) Prior to the review conducted under RCW 71.34.025, the professional person shall notify the minor of his or her right to petition superior court for release from the facility.

(7) For the purposes of this section "professional person" (~~does not include a social worker, unless the social worker is certified under RCW 18.19.110 and appropriately trained and qualified by education and experience, as defined by the department, in psychiatric social work~~) means "professional person" as defined in RCW 71.05.020.

Sec. 5. RCW 71.34.270 and 1985 c 354 s 27 are each amended to read as follows:

No public or private agency or governmental entity, nor officer of a public or private agency, nor the superintendent, or 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 under this chapter, nor any county designated mental health professional, nor professional person, nor evaluation and treatment facility, shall be civilly or criminally liable for performing (~~his or her duties under~~) actions authorized in this chapter with regard to the decision of whether to admit, release, or detain a person for evaluation and treatment: PROVIDED, That such duties were performed in good faith and without gross negligence.

NEW SECTION. Sec. 6. (1) The code reviser shall recodify, as necessary, the following sections of chapter 71.34 RCW in the following order, using the indicated subchapter headings:

General

71.34.010

71.34.020

71.34.140

71.34.032

71.34.250

71.34.280

71.34.260

71.34.240

71.34.230

71.34.210

71.34.200

71.34.225

71.34.220

71.34.160

71.34.190

71.34.170

71.34.290

71.34.056

71.34.800

71.34.805

71.34.810

71.34.015

71.34.027

71.34.130

71.34.270

Minor-Initiated Treatment

71.34.042

71.34.044

71.34.046

71.34.030

Parent-Initiated Treatment

71.34.052

71.34.025

71.34.162

71.34.164

71.34.035

71.34.054

Involuntary Commitment

71.34.040

71.34.050

71.34.060

71.34.070

71.34.080

71.34.090

71.34.100

71.34.120

71.34.110

71.34.150

71.34.180

Technical

71.34.900

71.34.901

(2) The code reviser shall correct all statutory references to sections recodified by this section.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House April 21, 2005.

Passed by the Senate April 21, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 372

[House Bill 1270]

LEOFF RETIREMENT—REEMPLOYMENT

AN ACT Relating to suspending a retirement allowance upon reemployment; amending RCW 41.26.500 and 41.26.500; providing an effective date; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 41.26.500 and 1998 c 341 s 604 are each amended to read as follows:

(1) ~~((N))~~ Except under subsection (3) of this section, a retiree under the provisions of plan 2 shall not be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030. If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

(3) A member or retiree who becomes employed in an eligible position as defined in RCW 41.40.010, 41.32.010, or 41.35.010 shall have the option to enter into membership in the corresponding retirement system for that position notwithstanding any provision of RCW 41.04.270. A retiree who elects to enter into plan membership shall have his or her benefits suspended as provided in subsection (1) of this section. A retiree who does not elect to enter into plan membership shall continue to receive his or her benefits without interruption.

Sec. 2. RCW 41.26.500 and 2004 c 242 s 54 are each amended to read as follows:

(1) ~~((N))~~ Except under subsection (3) of this section, a retiree under the provisions of plan 2 shall not be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, 41.37.010, or 41.35.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030. If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

(3) A member or retiree who becomes employed in an eligible position as defined in RCW 41.40.010, 41.32.010, 41.35.010, or 41.37.010 shall have the option to enter into membership in the corresponding retirement system for that position notwithstanding any provision of RCW 41.04.270. A retiree who elects to enter into plan membership shall have his or her benefits suspended as provided in subsection (1) of this section. A retiree who does not elect to enter into plan membership shall continue to receive his or her benefits without interruption.

NEW SECTION. Sec. 3. Section 1 of this act expires July 1, 2006.

**NEW SECTION. Sec. 4. Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.*

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

NEW SECTION. Sec. 5. Section 2 of this act takes effect July 1, 2006.

Passed by the House March 3, 2005.

Passed by the Senate April 22, 2005.

Approved by the Governor May 10, 2005, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 10, 2005.

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

"I am returning, without my approval as to Section 4, House Bill No. 1270 entitled:

"AN ACT Relating to suspending a retirement allowance upon reemployment."

This bill allows members of the Law Enforcement Officers and Fire Fighters Retirement System Plan 2 (LEOFF 2) to work at another state job and either earn pension credit at the new job while their original pension credits are suspended, or to continue receiving their old pension but not earn pension credit in the new system. Because law enforcement officers and fire fighters can retire earlier under the LEOFF 2 than in other pension plans, and move to another profession, this bill allows them important pension and professional flexibility.

I am vetoing Section 4 of this bill, the emergency clause, as the issues addressed in this important legislation do not rise to the level an emergency that requires the immediate revision of state laws.

For these reasons, I have vetoed Section 4 of House Bill No. 1270.

With the exception of Section 4, House Bill No. 1270 is approved."

CHAPTER 373

[Substitute House Bill 1313]

BACKGROUND CHECKS—PARK EMPLOYEES—FINGERPRINTING

AN ACT Relating to a record check of the parks and recreation commission's job applicants, volunteers, and independent contractors; amending RCW 43.43.570; and reenacting and amending RCW 79A.05.030.

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

Sec. 1. RCW 79A.05.030 and 1999 c 249 s 302, 1999 c 155 s 1, and 1999 c 59 s 1 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, and upon such conditions as shall be approved by the commission: PROVIDED, That leases exceeding a twenty-year term shall require a unanimous vote of the commission: PROVIDED FURTHER, That 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 television station leases shall be subject to the provisions of RCW 79A.05.085, only: PROVIDED FURTHER, That 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) 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 the effective date of this section, is exempt from the provisions of this subsection.

Sec. 2. RCW 43.43.570 and 1987 c 450 s 1 are each amended to read as follows:

(1) No local law enforcement agency may establish or operate an automatic fingerprint identification system unless(~~(~~

(a)) both the hardware and software of the local system ((are)) use an interface compatible with the state system under RCW 43.43.560((; and

(b) The local system is equipped to receive and answer inquiries from the Washington state patrol automatic fingerprint identification system and transmit data to the Washington state patrol automatic fingerprint identification system)). The local law enforcement agency shall be able to transmit a tenprint record to the state system through any available protocol which meets accepted industry standards, and the state system must be able to accept tenprint records which comply with those requirements. When industry transmission protocols change, the Washington state patrol shall incorporate these new standards as funding and reasonable system engineering practices permit. The tenprint transmission from any local law enforcement agency must be in accordance with the current version of the state electronic fingerprint transmission specification.

(2) No later than January 1, 2007, the Washington state patrol's automatic fingerprint identification system shall be capable of instantly accepting electronic latent search records from any Washington state local law enforcement agency. If specific funding for the purposes of this subsection is not provided by June 30, 2006, in the omnibus appropriations act, or if funding is not obtained from another source by June 30, 2006, this subsection is null and void.

(3) A local law enforcement agency operating an automatic fingerprint identification system shall transmit data on fingerprint entries to the Washington state patrol electronically ((by computer)). This requirement shall be in addition to those under RCW 10.98.050 and 43.43.740.

~~((3) Counties or local agencies that purchased or signed a contract to purchase an automatic fingerprint identification system prior to January 1, 1987, are exempt from the requirements of this section. The Washington state patrol shall charge fees for processing latent fingerprints submitted to the patrol by counties or local jurisdictions exempted from the requirements of this section. The fees shall cover, as nearly as practicable, the direct and indirect costs to the patrol of processing such fingerprints.))~~

(4) Any personnel functions necessary to prepare fingerprints for searches under this section shall be the responsibility of the submitting agency.

(5) The Washington state patrol shall adopt rules to implement this section.

Passed by the House April 18, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 374

[Engrossed Substitute House Bill 1314]

DOMESTIC VIOLENCE PREVENTION ACCOUNT

AN ACT Relating to filing fees to fund the domestic violence prevention account; amending RCW 36.18.010, 36.18.016, 70.123.030, 36.18.020, and 36.18.022; and adding a new section to chapter 70.123 RCW.

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

Sec. 1. RCW 36.18.010 and 2002 c 294 s 3 are each amended to read as follows:

County auditors or recording officers shall collect the following fees for their official services:

(1) For recording instruments, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

(2) For preparing and certifying copies, for the first page eight and one-half by fourteen inches or less, three dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

(3) For preparing noncertified copies, for each page eight and one-half by fourteen inches or less, one dollar;

(4) For administering an oath or taking an affidavit, with or without seal, two dollars;

(5) For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five-dollar fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund plus an additional ten-dollar fee to be transmitted monthly to the state treasurer

and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

(6) For searching records per hour, eight dollars;

(7) For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of twenty-five dollars per plat;

(8) For recording of miscellaneous records not listed above, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

(9) For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170((-);

(10) For recording an emergency nonstandard document as provided in RCW 65.04.047, fifty dollars, in addition to all other applicable recording fees((-);

(11) For recording instruments, a surcharge as provided in RCW 36.22.178.

Sec. 2. RCW 36.18.016 and 2002 c 338 s 2 are each amended to read as follows:

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2)(a) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, a fee of twenty dollars must be paid.

(b) The party filing the first or initial petition for dissolution, legal separation, or declaration concerning the validity of marriage shall pay, at the time and in addition to the filing fee required under RCW 36.18.020, a fee of thirty dollars. The clerk of the superior court shall transmit monthly twenty-four dollars of the thirty-dollar fee collected under this subsection to the state treasury for deposit in the domestic violence prevention account. The remaining six dollars shall be retained by the county for the purpose of supporting community-based services within the county for victims of domestic violence, except for five percent of the six dollars, which may be retained by the court for administrative purposes.

(3)(a) The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of one hundred twenty-five dollars; if the demand is for a jury of twelve, a fee of two hundred fifty dollars. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional one hundred twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(b) Upon conviction in criminal cases a jury demand charge of fifty dollars for a jury of six, or one hundred dollars for a jury of twelve may be imposed as costs under RCW 10.46.190.

(4) For preparing, transcribing, or certifying an instrument on file or of record in the clerk's office, with or without seal, for the first page or portion of the first page, a fee of two 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 one dollar for each additional seal affixed 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 approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

(8) 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 two dollars.

(9) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

(10) For clerk's services such as processing ex parte orders, performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed twenty dollars per hour or portion of an hour.

(11) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape.

(12) For the filing of oaths and affirmations under chapter 5.28 RCW, a fee of twenty dollars must be charged.

(13) For filing a disclaimer of interest under RCW 11.86.031(4), a fee of two dollars must be charged.

(14) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of five 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 one hundred ten dollars must be charged.

(16) A facilitator surcharge of ten dollars must be charged as authorized under RCW 26.12.240.

(17) For filing a water rights statement under RCW 90.03.180, a fee of twenty-five dollars must be charged.

(18) A service fee of three 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.

(19) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

(20) 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.

(21) Investment service charge and earnings under RCW 36.48.090 must be charged.

(22) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

(23) 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.

(24) 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.

NEW SECTION. Sec. 3. A new section is added to chapter 70.123 RCW to read as follows:

The domestic violence prevention account is created in the state treasury. All receipts from fees imposed for deposit in the domestic violence prevention account under RCW 36.18.016 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for funding nonshelter community-based services for victims of domestic violence.

Sec. 4. RCW 70.123.030 and 1989 1st ex.s. c 9 s 235 are each amended to read as follows:

The department of social and health services, in consultation with the state department of health, and individuals or groups having experience and knowledge of the problems of victims of domestic violence, shall:

(1) Establish minimum standards for shelters applying for grants from the department under this chapter. Classifications may be made dependent upon size, geographic location, and population needs;

(2) Receive grant applications for the development and establishment of shelters for victims of domestic violence;

(3) Distribute funds, within forty-five days after approval, to those shelters meeting departmental standards;

(4) Evaluate biennially each shelter receiving departmental funds for compliance with the established minimum standards; (~~and~~)

(5) Review the minimum standards each biennium to ensure applicability to community and client needs; and

(6) Administer funds available from the domestic violence prevention account under section 3 of this act and establish minimum standards for preventive, nonshelter community-based services receiving funds administered by the department. Preventive, nonshelter community-based services include services for victims of domestic violence from communities that have been traditionally underserved or unserved and services for children who have witnessed domestic violence.

Sec. 5. RCW 36.18.020 and 2000 c 9 s 1 are each amended to read as follows:

(1) Revenue collected under this section is subject to division with the state public safety and education account under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) In addition to any other fee required by law, the party filing the first or initial paper in any civil action, including, but not limited to an action for restitution, adoption, or change of name, shall pay, at the time the paper is filed, a fee of one hundred ten dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of thirty dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. The thirty dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other

order or judgment except a default order or default judgment in an unlawful detainer action.

(b) Any party, except a defendant in a criminal case, filing the first or initial paper on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the paper is filed, a fee of one hundred ten dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of one hundred ten dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of forty-one dollars.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of one hundred ten dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of one hundred ten dollars.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96A.220, there shall be paid a fee of one hundred ten dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmation of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of one hundred ten dollars.

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: PROVIDED, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

Sec. 6. RCW 36.18.022 and 1995 c 292 s 16 are each amended to read as follows:

The court may waive the filing fees provided for under RCW 36.18.016(2)(b) and 36.18.020(2) (a) and (b) upon affidavit by a party that the party is unable to pay the fee due to financial hardship.

Passed by the House April 19, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 375

[House Bill 1364]

NURSING HOMES—TEMPORARY MANAGERS—LIABILITY

AN ACT Relating to indemnifying and defending department of social and health services appointed temporary managers in nursing homes; and adding a new section to chapter 18.51 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.51 RCW to read as follows:

The department shall indemnify, defend, and hold harmless any temporary manager appointed and acting under RCW 18.51.060(7) against claims made against the temporary manager for any actions by the temporary manager or its agents that do not amount to intentional torts or criminal behavior.

Passed by the House March 8, 2005.

Passed by the Senate April 15, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 376

[Substitute House Bill 1756]

FIRE DEPARTMENTS

AN ACT Relating to the occupational safety and health of fire department employees; adding a new chapter to Title 35 RCW; adding a new chapter to Title 35A RCW; adding a new chapter to Title 52 RCW; adding a new chapter to Title 53 RCW; and creating a new section.

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

PART I - CITY FIRE DEPARTMENTS

NEW SECTION. **Sec. 101.** The legislature intends for city fire departments to set standards for addressing the reporting and accountability of substantially career fire departments, and to specify performance measures applicable to response time objectives for certain major services. The legislature acknowledges the efforts of the international city/county management association, the international association of fire chiefs, and the national fire protection association for the organization and deployment of resources for fire departments. The arrival of first responders with automatic external defibrillator capability before the onset of brain death, and the arrival of adequate fire suppression resources before flash-over is a critical event during the mitigation of an emergency, and is in the public's best interest. For these reasons, this chapter contains performance measures, comparable to that research, relating to the organization and deployment of fire suppression operations, emergency medical operations, and special operations by substantially career fire departments. This chapter does not, and is not intended to, in any way modify or limit the authority of cities and towns to set levels of service.

NEW SECTION. **Sec. 102.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced life support" means functional provision of advanced airway management, including intubation, advanced cardiac monitoring, manual defibrillation, establishment and maintenance of intravenous access, and drug therapy.

(2) "Aircraft rescue and fire fighting" means the fire fighting actions taken to rescue persons and to control or extinguish fire involving or adjacent to aircraft on the ground.

(3) "Brain death" as defined by the American heart association means the irreversible death of brain cells that begins four to six minutes after cardiac arrest.

(4) "City" means a first class city or a second class city that provides fire protection services in a specified geographic area.

(5) "Fire department" means a city or town fire department responsible for fire fighting actions, emergency medical services, and other special operations in a specified geographic area. The department must be a substantially career fire department, and not a substantially volunteer fire department.

(6) "Fire suppression" means the activities involved in controlling and extinguishing fires.

(7) "First responder" means provision of initial assessment and basic first-aid intervention, including cardiac pulmonary resuscitation and automatic external defibrillator capability.

(8) "Flash-over" as defined by national institute of standards and technology means when all combustibles in a room burst into flame and the fire spreads rapidly.

(9) "Marine rescue and fire fighting" means the fire fighting actions taken to prevent, control, or extinguish fire involved in or adjacent to a marine vessel and the rescue actions for occupants using normal and emergency routes for egress.

(10) "Response time" means the time immediately following the turnout time that begins when units are en route to the emergency incident and ends when units arrive at the scene.

(11) "Special operations" means those emergency incidents to which the fire department responds that require specific and advanced training and specialized tools and equipment.

(12) "Town" means a town that provides fire protection services, which may include fire fighting actions, emergency medical services, and other special operations, in a specified geographic area.

(13) "Turnout time" means the time beginning when units receive notification of the emergency to the beginning point of response time.

NEW SECTION. Sec. 103. (1) Every city and town shall maintain a written statement or policy that establishes the following:

- (a) The existence of a fire department;
- (b) Services that the fire department is required to provide;
- (c) The basic organizational structure of the fire department;
- (d) The expected number of fire department employees; and
- (e) Functions that fire department employees are expected to perform.

(2) Every city and town shall include service delivery objectives in the written statement or policy required under subsection (1) of this section. These objectives shall include specific response time objectives for the following major service components, if appropriate:

- (a) Fire suppression;
- (b) Emergency medical services;
- (c) Special operations;
- (d) Aircraft rescue and fire fighting;
- (e) Marine rescue and fire fighting; and
- (f) Wild land fire fighting.

(3) Every city and town, in order to measure the ability to arrive and begin mitigation operations before the critical events of brain death or flash-over, shall establish time objectives for the following measurements:

- (a) Turnout time;

(b) Response time for the arrival of the first arriving engine company at a fire suppression incident and response time for the deployment of a full first alarm assignment at a fire suppression incident;

(c) Response time for the arrival of a unit with first responder or higher level capability at an emergency medical incident; and

(d) Response time for the arrival of an advanced life support unit at an emergency medical incident, where this service is provided by the fire department.

(4) Every city and town shall also establish a performance objective of not less than ninety percent for the achievement of each response time objective established under subsection (3) of this section.

NEW SECTION. Sec. 104. (1) Every city and town shall evaluate its level of service and deployment delivery and response time objectives on an annual basis. The evaluations shall be based on data relating to level of service, deployment, and the achievement of each response time objective in each geographic area within the jurisdiction of the city or town.

(2) Beginning in 2007, every city and town shall issue an annual written report which shall be based on the annual evaluations required by subsection (1) of this section.

(a) The annual report shall define the geographic areas and circumstances in which the requirements of this standard are not being met.

(b) The annual report shall explain the predictable consequences of any deficiencies and address the steps that are necessary to achieve compliance.

PART II - CODE CITY FIRE DEPARTMENTS

NEW SECTION. Sec. 201. The legislature intends for code cities to set standards for addressing the reporting and accountability of substantially career fire departments, and to specify performance measures applicable to response time objectives for certain major services. The legislature acknowledges the efforts of the international city/county management association, the international association of fire chiefs, and the national fire protection association for the organization and deployment of resources for fire departments. The arrival of first responders with automatic external defibrillator capability before the onset of brain death, and the arrival of adequate fire suppression resources before flash-over is a critical event during the mitigation of an emergency, and is in the public's best interest. For these reasons, this chapter contains performance measures, comparable to that research, relating to the organization and deployment of fire suppression operations, emergency medical operations, and special operations by substantially career fire departments. This chapter does not, and is not intended to, in any way modify or limit the authority of code cities to set levels of service.

NEW SECTION. Sec. 202. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced life support" means functional provision of advanced airway management, including intubation, advanced cardiac monitoring, manual defibrillation, establishment and maintenance of intravenous access, and drug therapy.

(2) "Aircraft rescue and fire fighting" means the fire fighting actions taken to rescue persons and to control or extinguish fire involving or adjacent to aircraft on the ground.

(3) "Brain death" as defined by the American heart association means the irreversible death of brain cells that begins four to six minutes after cardiac arrest.

(4) "Code city" means a code city that provides fire protection services, which may include fire fighting actions, emergency medical services, and other special operations, in a specified geographic area.

(5) "Fire department" means a code city fire department responsible for fire fighting actions, emergency medical services, and other special operations in a specified geographic area. The department must be a substantially career fire department, and not a substantially volunteer fire department.

(6) "Fire suppression" means the activities involved in controlling and extinguishing fires.

(7) "First responder" means provision of initial assessment and basic first-aid intervention, including cardiac pulmonary resuscitation and automatic external defibrillator capability.

(8) "Flash-over" as defined by national institute of standards and technology means when all combustibles in a room burst into flame and the fire spreads rapidly.

(9) "Marine rescue and fire fighting" means the fire fighting actions taken to prevent, control, or extinguish fire involved in or adjacent to a marine vessel and the rescue actions for occupants using normal and emergency routes for egress.

(10) "Response time" means the time immediately following the turnout time that begins when units are en route to the emergency incident and ends when units arrive at the scene.

(11) "Special operations" means those emergency incidents to which the fire department responds that require specific and advanced training and specialized tools and equipment.

(12) "Turnout time" means the time beginning when units receive notification of the emergency to the beginning point of response time.

NEW SECTION. Sec. 203. (1) Every code city shall maintain a written statement or policy that establishes the following:

- (a) The existence of a fire department;
- (b) Services that the fire department is required to provide;
- (c) The basic organizational structure of the fire department;
- (d) The expected number of fire department employees; and
- (e) Functions that fire department employees are expected to perform.

(2) Every code city shall include service delivery objectives in the written statement or policy required under subsection (1) of this section. These objectives shall include specific response time objectives for the following major service components, if appropriate:

- (a) Fire suppression;
- (b) Emergency medical services;
- (c) Special operations;
- (d) Aircraft rescue and fire fighting;
- (e) Marine rescue and fire fighting; and
- (f) Wild land fire fighting.

(3) Every code city, in order to measure the ability to arrive and begin mitigation operations before the critical events of brain death or flash-over, shall establish time objectives for the following measurements:

(a) Turnout time;

(b) Response time for the arrival of the first arriving engine company at a fire suppression incident and response time for the deployment of a full first alarm assignment at a fire suppression incident;

(c) Response time for the arrival of a unit with first responder or higher level capability at an emergency medical incident; and

(d) Response time for the arrival of an advanced life support unit at an emergency medical incident, where this service is provided by the fire department.

(4) Every code city shall also establish a performance objective of not less than ninety percent for the achievement of each response time objective established under subsection (3) of this section.

NEW SECTION. Sec. 204. (1) Every code city shall evaluate its level of service and deployment delivery and response time objectives on an annual basis. The evaluations shall be based on data relating to level of service, deployment, and the achievement of each response time objective in each geographic area within the code city's jurisdiction.

(2) Beginning in 2007, every code city shall issue an annual written report which shall be based on the annual evaluations required by subsection (1) of this section.

(a) The annual report shall define the geographic areas and circumstances in which the requirements of this standard are not being met.

(b) The annual report shall explain the predictable consequences of any deficiencies and address the steps that are necessary to achieve compliance.

PART III - FIRE PROTECTION DISTRICTS AND REGIONAL FIRE PROTECTION SERVICE AUTHORITIES

NEW SECTION. Sec. 301. The legislature intends for fire protection districts and regional fire service authorities to set standards for addressing the reporting and accountability of substantially career fire departments, and to specify performance measures applicable to response time objectives for certain major services. The legislature acknowledges the efforts of the international city/county management association, the international association of fire chiefs, and the national fire protection association for the organization and deployment of resources for fire departments. The arrival of first responders with automatic external defibrillator capability before the onset of brain death, and the arrival of adequate fire suppression resources before flash-over is a critical event during the mitigation of an emergency, and is in the public's best interest. For these reasons, this chapter contains performance measures, comparable to that research, relating to the organization and deployment of fire suppression operations, emergency medical operations, and special operations by substantially career fire departments. This chapter does not, and is not intended to, in any way modify or limit the authority of fire protection districts and regional fire protection service authorities to set levels of service.

NEW SECTION. Sec. 302. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced life support" means functional provision of advanced airway management, including intubation, advanced cardiac monitoring, manual defibrillation, establishment and maintenance of intravenous access, and drug therapy.

(2) "Aircraft rescue and fire fighting" means the fire fighting actions taken to rescue persons and to control or extinguish fire involving or adjacent to aircraft on the ground.

(3) "Brain death" as defined by the American heart association means the irreversible death of brain cells that begins four to six minutes after cardiac arrest.

(4) "Fire department" means a fire protection district or a regional fire protection service authority responsible for fire fighting actions, emergency medical services, and other special operations in a specified geographic area. The department must be a substantially career fire department, and not a substantially volunteer fire department.

(5) "Fire suppression" means the activities involved in controlling and extinguishing fires.

(6) "First responder" means provision of initial assessment and basic first-aid intervention, including cardiac pulmonary resuscitation and automatic external defibrillator capability.

(7) "Flash-over" as defined by national institute of standards and technology means when all combustibles in a room burst into flame and the fire spreads rapidly.

(8) "Marine rescue and fire fighting" means the fire fighting actions taken to prevent, control, or extinguish fire involved in or adjacent to a marine vessel and the rescue actions for occupants using normal and emergency routes for egress.

(9) "Response time" means the time immediately following the turnout time that begins when units are en route to the emergency incident and ends when units arrive at the scene.

(10) "Special operations" means those emergency incidents to which the fire department responds that require specific and advanced training and specialized tools and equipment.

(11) "Turnout time" means the time beginning when units receive notification of the emergency to the beginning point of response time.

NEW SECTION. Sec. 303. (1) Every fire protection district and regional fire protection service authority shall maintain a written statement or policy that establishes the following:

- (a) The existence of a fire department;
- (b) Services that the fire department is required to provide;
- (c) The basic organizational structure of the fire department;
- (d) The expected number of fire department employees; and
- (e) Functions that fire department employees are expected to perform.

(2) Every fire protection district and regional fire protection service authority shall include service delivery objectives in the written statement or policy required under subsection (1) of this section. These objectives shall include specific response time objectives for the following major service components, if appropriate:

- (a) Fire suppression;
- (b) Emergency medical services;
- (c) Special operations;
- (d) Aircraft rescue and fire fighting;
- (e) Marine rescue and fire fighting; and
- (f) Wild land fire fighting.

(3) Every fire protection district and regional fire protection service authority, in order to measure the ability to arrive and begin mitigation operations before the critical events of brain death or flash-over, shall establish time objectives for the following measurements:

- (a) Turnout time;
- (b) Response time for the arrival of the first arriving engine company at a fire suppression incident and response time for the deployment of a full first alarm assignment at a fire suppression incident;
- (c) Response time for the arrival of a unit with first responder or higher level capability at an emergency medical incident; and
- (d) Response time for the arrival of an advanced life support unit at an emergency medical incident, where this service is provided by the fire department.

(4) Every fire protection district and regional fire protection service authority shall also establish a performance objective of not less than ninety percent for the achievement of each response time objective established under subsection (3) of this section.

NEW SECTION. Sec. 304. (1) Every fire protection district and regional fire protection service authority shall evaluate its level of service and deployment delivery and response time objectives on an annual basis. The evaluations shall be based on data relating to level of service, deployment, and the achievement of each response time objective in each geographic area within the jurisdiction of the fire protection district and regional fire protection service authority.

(2) Beginning in 2007, every fire protection district and regional fire protection service authority shall issue an annual written report which shall be based on the annual evaluations required by subsection (1) of this section.

(a) The annual report shall define the geographic areas and circumstances in which the requirements of this standard are not being met.

(b) The annual report shall explain the predictable consequences of any deficiencies and address the steps that are necessary to achieve compliance.

PART IV - PORT DISTRICTS

NEW SECTION. Sec. 401. The legislature intends for port districts to set standards for addressing the reporting and accountability of substantially career fire departments, and to specify performance measures applicable to response time objectives for certain major services. The legislature acknowledges the efforts of the international city/county management association, the international association of fire chiefs, and the national fire protection association for the organization and deployment of resources for fire departments. The arrival of first responders with automatic external defibrillator capability before the onset of brain death, and the arrival of adequate fire suppression resources before

flash-over is a critical event during the mitigation of an emergency, and is in the public's best interest. For these reasons, this chapter contains performance measures, comparable to that research, relating to the organization and deployment of fire suppression operations, emergency medical operations, and special operations by substantially career fire departments. This chapter does not, and is not intended to, in any way modify or limit the authority of port districts to set levels of service.

NEW SECTION. Sec. 402. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced life support" means functional provision of advanced airway management, including intubation, advanced cardiac monitoring, manual defibrillation, establishment and maintenance of intravenous access, and drug therapy.

(2) "Aircraft rescue and fire fighting" means the fire fighting actions taken to rescue persons and to control or extinguish fire involving or adjacent to aircraft on the ground.

(3) "Brain death" as defined by the American heart association means the irreversible death of brain cells that begins four to six minutes after cardiac arrest.

(4) "Fire department" means a port district fire department responsible for fire fighting actions, emergency medical services, and other special operations in a specified geographic area. The department must be a substantially career fire department, and not a substantially volunteer fire department.

(5) "Fire suppression" means the activities involved in controlling and extinguishing fires.

(6) "First responder" means provision of initial assessment and basic first-aid intervention, including cardiac pulmonary resuscitation and automatic external defibrillator capability.

(7) "Flash-over" as defined by national institute of standards and technology means when all combustibles in a room burst into flame and the fire spreads rapidly.

(8) "Marine rescue and fire fighting" means the fire fighting actions taken to prevent, control, or extinguish fire involved in or adjacent to a marine vessel and the rescue actions for occupants using normal and emergency routes for egress.

(9) "Port" means a port district that provides fire protection services, which may include fire fighting actions, emergency medical services, and other special operations, in a specified geographic area.

(10) "Response time" means the time immediately following the turnout time that begins when units are en route to the emergency incident and ends when units arrive at the scene.

(11) "Special operations" means those emergency incidents to which the fire department responds that require specific and advanced training and specialized tools and equipment.

(12) "Turnout time" means the time beginning when units receive notification of the emergency to the beginning point of response time.

NEW SECTION. Sec. 403. (1) Every port shall maintain a written statement or policy that establishes the following:

(a) The existence of a fire department;

- (b) Services that the fire department is required to provide;
- (c) The basic organizational structure of the fire department;
- (d) The expected number of fire department employees; and
- (e) Functions that fire department employees are expected to perform.

(2) Every port shall include service delivery objectives in the written statement or policy required under subsection (1) of this section. These objectives shall include specific response time objectives for the following major service components, if appropriate:

- (a) Fire suppression;
- (b) Emergency medical services;
- (c) Special operations;
- (d) Aircraft rescue and fire fighting;
- (e) Marine rescue and fire fighting; and
- (f) Wild land fire fighting.

(3) Every port, in order to measure the ability to arrive and begin mitigation operations before the critical events of brain death or flash-over, shall establish time objectives for the following measurements:

- (a) Turnout time;

(b) Response time for the arrival of the first arriving engine company at a fire suppression incident and response time for the deployment of a full first alarm assignment at a fire suppression incident;

(c) Response time for the arrival of a unit with first responder or higher level capability at an emergency medical incident; and

(d) Response time for the arrival of an advanced life support unit at an emergency medical incident, where this service is provided by the fire department.

(4) Every port shall also establish a performance objective of not less than ninety percent for the achievement of each response time objective established under subsection (3) of this section.

(5) An annual part 139 inspection and certification by the federal aviation administration shall be considered to meet the requirements of this section.

NEW SECTION. Sec. 404. (1) Every port shall evaluate its level of service and deployment delivery and response time objectives on an annual basis. The evaluations shall be based on data relating to level of service, deployment, and the achievement of each response time objective in each geographic area within the port's jurisdiction.

(2) Beginning in 2007, every port shall issue an annual written report which shall be based on the annual evaluations required by subsection (1) of this section.

(a) The annual report shall define the geographic areas and circumstances in which the requirements of this standard are not being met.

(b) The annual report shall explain the predictable consequences of any deficiencies and address the steps that are necessary to achieve compliance.

(3) An annual part 139 inspection and certification by the federal aviation administration shall be considered to meet the requirements of this section.

PART V - MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 501. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 502. (1) Sections 101 through 104 of this act constitute a new chapter in Title 35 RCW.

(2) Sections 201 through 204 of this act constitute a new chapter in Title 35A RCW.

(3) Sections 301 through 304 of this act constitute a new chapter in Title 52 RCW.

(4) Sections 401 through 404 of this act constitute a new chapter in Title 53 RCW.

Passed by the House April 19, 2005.

Passed by the Senate April 15, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 377

[Engrossed Substitute House Bill 1830]

CAPITAL PROJECTS ADVISORY REVIEW BOARD

AN ACT Relating to alternative public works contracting procedures; adding new sections to chapter 39.10 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 39.10 RCW to read as follows:

(1) The capital projects advisory review board is created in the department of general administration to provide an evaluation of public capital projects construction processes, including the impact of contracting methods on project outcomes, and to advise the legislature on policies related to alternative public works delivery methods.

(2)(a) The capital projects advisory review board shall consist of the following members appointed by the governor: One representative from construction general contracting; one representative from the design industries; two representatives from construction specialty subcontracting; one representative from a construction trades labor organization; one representative from the office of minority and women's business enterprises; one representative from a higher education institution; one representative from the department of general administration; and one representative of a domestic insurer authorized to write surety bonds for contractors in Washington state. All appointed members must be actively engaged in or authorized to use alternative public works contracting procedures.

(b) Two members shall be at-large positions representing local public owners. The two at-large positions shall serve on a rotating basis to be determined and appointed by the association of Washington cities, the Washington state association of counties, and the Washington public ports association.

(c) One member shall be a member of the public hospital district project review board, selected by that board, who shall be nonvoting.

(d) One member shall be a member of the school district project review board, selected by that board, who shall be nonvoting.

(e) The advisory review board shall include two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives, and two members of the senate, one from each major caucus, appointed by the president of the senate. Legislative members are nonvoting.

(3) Members selected under subsection (2)(a) of this section shall serve for terms of four years, with the terms expiring on June 30th on the fourth year of the term. However, in the case of the initial members, four members shall serve four-year terms, four members shall serve three-year terms, and three members shall serve a two-year term, with each of the terms expiring on June 30th of the applicable year. Appointees may be reappointed to serve more than one term.

(4) The capital projects advisory review board chair is selected from among the appointed members by the majority vote of the voting members.

(5) Legislative members of the capital projects advisory review board shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members of the capital projects advisory review board, including any subcommittee members, except those representing an employer or organization, shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(6) If a vacancy occurs of the appointive members of the board, the governor shall fill the vacancy for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW.

(7) The capital projects advisory review board shall convene as soon as practical after July 1, 2005, and may meet as often as necessary thereafter.

(8) Capital projects advisory review board members are expected to consistently attend review board meetings. The chair of the capital projects advisory review board may ask the governor to remove any member who misses more than two meetings in any calendar year without cause.

(9) The department of general administration shall provide staff support as may be required for the proper discharge of the function of the capital projects advisory review board.

(10) The capital projects advisory review board may establish subcommittees as it desires and may invite nonmembers of the capital projects advisory review board to serve as committee members.

(11) The board shall encourage participation from persons and entities not represented on the capital projects advisory review board.

NEW SECTION. Sec. 2. A new section is added to chapter 39.10 RCW to read as follows:

The capital projects advisory review board has the following powers and duties:

(1) Develop and recommend to the legislature criteria that may be used to determine effective and feasible use of alternative contracting procedures;

(2) Develop and recommend to the legislature qualification standards for general contractors bidding on alternative public works projects;

(3) Develop and recommend to the legislature policies to further enhance the quality, efficiency, and accountability of capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding expansion, continuation, elimination, or modification of the alternative public works contracting methods;

(4) Evaluate the potential future use of other alternative contracting procedures including competitive negotiation contracts.

NEW SECTION. Sec. 3. A new section is added to chapter 39.10 RCW to read as follows:

Notwithstanding any other provision of law, and after complying with RCW 39.10.030, any city that: (1) is located in a county authorized under this chapter to use alternative public works procedures or is located in a county that is a member of the Puget Sound regional council; (2) reports in the state auditor's local government financial reporting system combined general fund, special revenue, debt service, capital projects, and enterprise funds revenues that exceed sixty million dollars; and (3) has a population greater than twenty-five thousand but less than forty-five thousand, is authorized to use the general contractor/construction manager or design-build procedure for one demonstration project valued over ten million dollars.

All contracts authorized under this section must be entered into before March 1, 2006.

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, 2005, in the omnibus appropriations act, sections 1 and 2 of this act are null and void.

Passed by the House April 24, 2005.

Passed by the Senate April 23, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 378

[Engrossed Second Substitute House Bill 1888]

PHISHING

AN ACT Relating to electronic mail fraud; amending RCW 19.190.010; adding new sections to chapter 19.190 RCW; and prescribing penalties.

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

Sec. 1. RCW 19.190.010 and 2003 c 137 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) "Assist the transmission" means actions taken by a person to provide substantial assistance or support which enables any person to formulate, compose, send, originate, initiate, or transmit a commercial electronic mail message or a commercial electronic text message when the person providing the assistance knows or consciously avoids knowing that the initiator of the commercial electronic mail message or the commercial electronic text message is engaged, or intends to engage, in any practice that violates the consumer protection act. "Assist the transmission" does not include any of the following:

(a) Activities of an electronic mail service provider or other entity who provides intermediary transmission service in sending or receiving electronic mail, or provides to users of electronic mail services the ability to send, receive, or compose electronic mail; or (b) activities of any entity related to the design, manufacture, or distribution of any technology, product, or component that has a commercially significant use other than to violate or circumvent this section.

(2) "Commercial electronic mail message" means an electronic mail message sent for the purpose of promoting real property, goods, or services for sale or lease. It does not mean an electronic mail message to which an interactive computer service provider has attached an advertisement in exchange for free use of an electronic mail account, when the sender has agreed to such an arrangement.

(3) "Commercial electronic text message" means an electronic text message sent to promote real property, goods, or services for sale or lease.

(4) "Electronic mail address" means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

(5) "Electronic mail message" means an electronic message sent to an electronic mail address and a reference to an internet domain, whether or not displayed, to which an electronic mail message can be sent or delivered.

(6) "Electronic text message" means a text message sent to a cellular telephone or pager equipped with short message service or any similar capability, whether the message is initiated as a short message service message or as an electronic mail message.

~~((6))~~ (7) "Initiate the transmission" refers to the action by the original sender of an electronic mail message or an electronic text message, not to the action by any intervening interactive computer service or wireless network that may handle or retransmit the message, unless such intervening interactive computer service assists in the transmission of an electronic mail message when it knows, or consciously avoids knowing, that the person initiating the transmission is engaged, or intends to engage, in any act or practice that violates the consumer protection act.

~~((7))~~ (8) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet and such systems operated or services offered by libraries or educational institutions.

~~((8))~~ (9) "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, that comprise the interconnected world wide network of networks that employ the transmission control protocol/internet protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(10) "Internet domain name" refers to a globally unique, hierarchical reference to an internet host or service, assigned through centralized internet naming authorities, comprising a series of character strings separated by periods, with the right-most string specifying the top of the hierarchy.

~~((9))~~ (11) "Person" means ~~((a person, corporation, partnership, or association))~~ an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental

subdivision, agency or instrumentality, public corporation, or any other legal or commercial entity.

(12) "Personally identifying information" means an individual's: (a) Social security number; (b) driver's license number; (c) bank account number; (d) credit or debit card number; (e) personal identification number; (f) automated or electronic signature; (g) unique biometric data; (h) account passwords; or (i) any other piece of information that can be used to access an individual's financial accounts or to obtain goods or services.

(13) "Web page" means a location, with respect to the world wide web, that has a single uniform resource locator or other single location with respect to the internet.

NEW SECTION. Sec. 2. A new section is added to chapter 19.190 RCW to read as follows:

It is a violation of this chapter to solicit, request, or take any action to induce a person to provide personally identifying information by means of a web page, electronic mail message, or otherwise using the internet by representing oneself, either directly or by implication, to be another person, without the authority or approval of such other person.

NEW SECTION. Sec. 3. A new section is added to chapter 19.190 RCW to read as follows:

(1) A person who is injured under this chapter may bring a civil action in the superior court to enjoin further violations, and to seek up to five hundred dollars per violation, or actual damages, whichever is greater. A person who seeks damages under this subsection may only bring an action against a person or entity that directly violates section 2 of this act.

(2) A person engaged in the business of providing internet access service to the public, an owner of a web page, or trademark owner who is adversely affected by reason of a violation of section 2 of this act, may bring an action against a person who violates section 2 of this act to:

- (a) Enjoin further violations of section 2 of this act; and
- (b) Recover the greater of actual damages or five thousand dollars per violation of section 2 of this act.

(3) In an action under subsection (2) of this section, a court may increase the damages up to three times the damages allowed by subsection (2) of this section if the defendant has engaged in a pattern and practice of violating this section. The court may award costs and reasonable attorneys' fees to a prevailing party.

NEW SECTION. Sec. 4. A new section is added to chapter 19.190 RCW to read as follows:

The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business, and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 5. A new section is added to chapter 19.190 RCW to read as follows:

It is the intent of the legislature that this chapter is a matter of statewide concern. This chapter supersedes and preempts all rules, regulations, codes,

ordinances, and other laws adopted by a city, county, city and county, municipality, or local agency regarding the practices covered by this chapter and notices to consumers from computer software providers regarding information collection.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House April 18, 2005.

Passed by the Senate April 7, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 379

[Substitute House Bill 1951]

PUBLIC SCHOOLS—VISION TESTING

AN ACT Relating to vision exams for school-aged children; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that:

- (1) Vision is one of the primary senses used in the early learning process;
- (2) Vision problems affecting preschool and school-age children can impact a child's ability to learn;
- (3) Economically disadvantaged children have less access to health care and therefore, may have a proportionally greater likelihood of having undiagnosed vision problems that may affect their ability to learn;
- (4) Vision problems in young children can be misinterpreted as neurodevelopmental delay or as learning disabilities; and
- (5) Current screening for visual acuity at distance is insufficient to detect all vision defects.

NEW SECTION. Sec. 2. (1) The department of health shall convene a work group to reevaluate visual screening of children in public schools and make any recommendations regarding changes to the rules. In developing its recommendations, the work group shall, at a minimum:

- (a) Consider the benefits of complete eye exams on public school children;
 - (b) Consider when visual screening, complete eye exams, or both should take place in preschool or kindergarten through high school in order to ensure children are best prepared for the learning environment; and
 - (c) Consider what screening techniques would be appropriate in a school setting.
- (2) In developing the recommendations, the department of health shall consult with the office of the superintendent of public instruction, the state board of health, the optometric physicians of Washington, and the Washington academy of eye physicians and surgeons.

(3) The work group shall make a preliminary report to the legislature and the state board of health by December 1, 2005. The work group shall make final recommendations to the legislature and to the state board of health by December 1, 2006.

(4) If specific funding for this act is not referenced by bill or chapter number in the biennial omnibus appropriations act by June 30, 2005, this act is null and void.

Passed by the House April 18, 2005.

Passed by the Senate April 6, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 380

[House Bill 2101]

SEX OFFENDERS—SCHOOL NOTIFICATION

AN ACT Relating to registration of sex offenders and kidnapping offenders in schools, notification to the school, and dissemination of the information within the school; amending RCW 4.24.550; reenacting and amending RCW 9A.44.130; creating a new section; and providing an effective date.

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

Sec. 1. RCW 9A.44.130 and 2003 c 215 s 1 and 2003 c 53 s 68 are each reenacted and amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person. ~~((In addition, any such))~~

(b) Any adult or juvenile who is required to register under (a) of this subsection:

~~((a))~~ (i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within ten days of enrolling or prior to arriving at the school to attend classes, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

~~((b))~~ (iii) Who gains employment at a public or private institution of higher education shall, within ten days of accepting employment or by the first business day after commencing work at the institution, whichever is earlier,

notify the sheriff for the county of the person's residence of the person's employment by the institution; or

~~((c))~~ (iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within ten days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

(c) Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, or a public or private school regulated under Title 28A RCW or chapter 72.40 RCW on the effective date of this act, must notify the county sheriff immediately.

(d) The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(e)(i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every teacher of any student required to register under (a) of this subsection and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.500 upon the public safety department of any public or private school or institution of higher education.

(3)(a) The person shall provide the following information when registering: (i) Name; (ii) address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) Any person who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay.

(4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of

corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (10) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United

States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) **OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED.** Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) **OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS.** Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within thirty days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) **OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY.** Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's

residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (10) of this section.

(vii) **OFFENDERS WHO LACK A FIXED RESIDENCE.** Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than twenty-four hours after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) **OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION.** Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) **OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE.** Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within ten days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ten days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (10) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of address to the county sheriff within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

(8) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

(9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means:

(i) Any offense defined as a sex offense by RCW 9.94A.030;

(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and

(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(b) "Kidnapping offense" means: (i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent; (ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection (9)(b); and (iii) any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a kidnapping offense under this subsection (9)(b).

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

(10)(a) A person who knowingly fails to register with the county sheriff or notify the county sheriff, or who changes his or her name without notifying the

county sheriff and the state patrol, as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (9)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (9)(a) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(11)(a) A person who knowingly fails to register or who moves within the state without notifying the county sheriff as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a felony kidnapping offense as defined in subsection (9)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection (9)(b) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(12) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

Sec. 2. RCW 4.24.550 and 2003 c 217 s 1 are each amended to read as follows:

(1) In addition to the disclosure under subsection (5) of this section, public agencies are authorized to release information to the public regarding sex offenders and kidnapping offenders when the agency determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by the particular offender. This authorization applies to information regarding: (a) Any person adjudicated or convicted of a sex offense as defined in RCW 9A.44.130 or a kidnapping offense as defined by RCW 9A.44.130; (b) any person under the jurisdiction of the indeterminate sentence review board as the result of a sex offense or kidnapping offense; (c) any person committed as a sexually violent predator under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW; (d) any person found not guilty of a sex offense or kidnapping offense by reason of insanity under chapter 10.77 RCW; and (e) any person found incompetent to stand trial for a sex offense or kidnapping offense and subsequently committed under chapter 71.05 or 71.34 RCW.

(2) Except for the information specifically required under subsection (5) of this section, the extent of the public disclosure of relevant and necessary information shall be rationally related to: (a) The level of risk posed by the offender to the community; (b) the locations where the offender resides, expects to reside, or is regularly found; and (c) the needs of the affected community members for information to enhance their individual and collective safety.

(3) Except for the information specifically required under subsection (5) of this section, local law enforcement agencies shall consider the following guidelines in determining the extent of a public disclosure made under this

section: (a) For offenders classified as risk level I, the agency shall share information with other appropriate law enforcement agencies and, if the offender is a student, the public or private school regulated under Title 28A RCW or chapter 72.40 RCW which the offender is attending, or planning to attend. The agency may disclose, upon request, relevant, necessary, and accurate information to any victim or witness to the offense and to any individual community member who lives near the residence where the offender resides, expects to reside, or is regularly found; (b) for offenders classified as risk level II, the agency may also disclose relevant, necessary, and accurate information to public and private schools, child day care centers, family day care providers, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides, expects to reside, or is regularly found; (c) for offenders classified as risk level III, the agency may also disclose relevant, necessary, and accurate information to the public at large; and (d) because more localized notification is not feasible and homeless and transient offenders may present unique risks to the community, the agency may also disclose relevant, necessary, and accurate information to the public at large for offenders registered as homeless or transient.

(4) The county sheriff with whom an offender classified as risk level III is registered shall cause to be published by legal notice, advertising, or news release a sex offender community notification that conforms to the guidelines established under RCW 4.24.5501 in at least one legal newspaper with general circulation in the area of the sex offender's registered address or location. The county sheriff shall also cause to be published consistent with this subsection a current list of level III registered sex offenders, twice yearly. Unless the information is posted on the web site described in subsection (5) of this section, this list shall be maintained by the county sheriff on a publicly accessible web site and shall be updated at least once per month.

(5)(a) When funded by federal grants or other sources, the Washington association of sheriffs and police chiefs shall create and maintain a statewide registered sex offender web site, which shall be available to the public. The web site shall post all level III and level II registered sex offenders in the state of Washington.

(i) For level III offenders, the web site shall contain, but is not limited to, the registered sex offender's name, relevant criminal convictions, address by hundred block, physical description, and photograph. The web site shall provide mapping capabilities that display the sex offender's address by hundred block on a map. The web site shall allow citizens to search for registered sex offenders within the state of Washington by county, city, zip code, last name, type of conviction, and address by hundred block.

(ii) For level II offenders, the web site shall contain, but is not limited to, the same information and functionality as described in (a)(i) of this subsection, provided that it is permissible under state and federal law. If it is not permissible, the web site shall be limited to the information and functionality that is permissible under state and federal law.

(b) Until the implementation of (a) of this subsection, the Washington association of sheriffs and police chiefs shall create a web site available to the

public that provides electronic links to county-operated web sites that offer sex offender registration information.

(6) Local law enforcement agencies that disseminate information pursuant to this section shall: (a) Review available risk level classifications made by the department of corrections, the department of social and health services, and the indeterminate sentence review board; (b) assign risk level classifications to all offenders about whom information will be disseminated; and (c) make a good faith effort to notify the public and residents at least fourteen days before the offender is released from confinement or, where an offender moves from another jurisdiction, as soon as possible after the agency learns of the offender's move, except that in no case may this notification provision be construed to require an extension of an offender's release date. The juvenile court shall provide local law enforcement officials with all relevant information on offenders allowed to remain in the community in a timely manner.

(7) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any discretionary risk level classification decisions or release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity in this section applies to risk level classification decisions and the release of relevant and necessary information regarding any individual for whom disclosure is authorized. The decision of a local law enforcement agency or official to classify an offender to a risk level other than the one assigned by the department of corrections, the department of social and health services, or the indeterminate sentence review board, or the release of any relevant and necessary information based on that different classification shall not, by itself, be considered gross negligence or bad faith. The immunity provided under this section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

(8) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information authorized under this section.

(9) Nothing in this section implies that information regarding persons designated in subsection (1) of this section is confidential except as may otherwise be provided by law.

(10) When a local law enforcement agency or official classifies an offender differently than the offender is classified by the end of sentence review committee or the department of social and health services at the time of the offender's release from confinement, the law enforcement agency or official shall notify the end of sentence review committee or the department of social and health services and submit its reasons supporting the change in classification. Upon implementation of subsection (5)(a) of this section, notification of the change shall also be sent to the Washington association of sheriffs and police chiefs.

NEW SECTION. Sec. 3. The safety center of the office of the superintendent of public instruction shall review the types and amounts of training that will be necessary for principals, teachers, supervisors, and school staff to implement this act and shall report to the appropriate committees of the

legislature with recommendations for training requirements not later than January 1, 2006.

NEW SECTION. Sec. 4. This act takes effect September 1, 2006.

Passed by the House April 19, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 381

[Engrossed Substitute House Bill 2126]

CRIME VICTIMS—DEPENDENT PERSONS

AN ACT Relating to providing accommodations to dependent persons who are victims and witnesses; and adding a new chapter to Title 7 RCW.

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

NEW SECTION. Sec. 1. The legislature recognizes that it is important that dependent persons who are witnesses and victims of crime cooperate with law enforcement and prosecutorial agencies and that their assistance contributes to state and local enforcement efforts and the general effectiveness of the criminal justice system. The legislature finds that the state has an interest in making it possible for courts to adequately and fairly conduct cases involving dependent persons who are victims of crimes. Therefore, it is the intent of the legislature, by means of this chapter, to insure that all dependent persons who are victims and witnesses of crime are treated with sensitivity, courtesy, and special care and that their rights be protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protection afforded to other victims, witnesses, and criminal defendants.

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

(1) "Crime" means an act punishable as a felony, gross misdemeanor, or misdemeanor under the laws of this state or equivalent federal or local law.

(2) "Dependent person" has the same meaning as that term is defined in RCW 9A.42.010.

(3) "Victim" means a living person against whom a crime has been committed.

(4) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution or defense in a criminal action, or who by reason of having relevant information is subject to call or likely to be called as a witness, whether or not an action or proceeding has been commenced.

(5) "Family member" means a person who is not accused of a crime and who is an adult child, adult sibling, spouse, parent, or legal guardian of the dependent person.

(6) "Advocate" means any person not accused of a crime, including a family member, approved by the witness or victim, in consultation with his or her guardian if applicable, who provides support to a dependent person during any legal proceeding.

(7) "Court proceedings" means any court proceeding conducted during the course of the prosecution of a crime committed against a dependent person, including pretrial hearings, trial, sentencing, or appellate proceedings.

(8) "Identifying information" means the dependent person's name, address, location, and photograph, and in cases in which the dependent person is a relative of the alleged perpetrator, identification of the relationship between the dependent person and the alleged perpetrator.

(9) "Crime victim/witness program" means any crime victim and witness program of a county or local law enforcement agency or prosecutor's office, any rape crisis center's sexual assault victim advocacy program as provided in chapter 70.125 RCW, any domestic violence program's legal and community advocate program for domestic violence victims as provided in chapter 70.123 RCW, or any other crime victim advocacy program which provides trained advocates to assist crime victims during the investigation and prosecution of the crime.

NEW SECTION. Sec. 3. (1) In addition to the rights of victims and witnesses provided for in RCW 7.69.030, there shall be every reasonable effort made by law enforcement agencies, prosecutors, and judges to assure that dependent persons who are victims or witnesses are afforded the rights enumerated in this section. The enumeration of rights under this chapter shall not be construed to create substantive rights and duties, and the application of an enumerated right in an individual case is subject to the discretion of the law enforcement agency, prosecutor, or judge. Dependent persons who are victims or witnesses in the criminal justice system have the following rights, which apply to any criminal court or juvenile court proceeding:

(a) To have explained in language easily understood by the dependent person, all legal proceedings and police investigations in which the dependent person may be involved.

(b) With respect to a dependent person who is a victim of a sex or violent crime, to have a crime victim advocate from a crime victim/witness program, or any other advocate of the victim's choosing, present at any prosecutorial or defense interviews with the dependent person. This subsection applies unless it creates undue hardship and if the presence of the crime victim advocate or other advocate does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate or other advocate is to provide emotional support to the dependent person and to promote the dependent person's feelings of security and safety.

(c) To be provided, whenever possible, a secure waiting area during court proceedings and to have an advocate or support person remain with the dependent person prior to and during any court proceedings.

(d) To allow an advocate to make recommendations to the prosecuting attorney about the ability of the dependent person to cooperate with prosecution and the potential effect of the proceedings on the dependent person.

(e) To allow an advocate to provide information to the court concerning the dependent person's ability to understand the nature of the proceedings.

(f) To be provided information or appropriate referrals to social service agencies to assist the dependent person with the emotional impact of the crime, the subsequent investigation, and judicial proceedings in which the dependent person is involved.

(g) To allow an advocate to be present in court while the dependent person testifies in order to provide emotional support to the dependent person.

(h) To provide information to the court as to the need for the presence of other supportive persons at the court proceedings while the dependent person testifies in order to promote the dependent person's feelings of security and safety.

(i) To allow law enforcement agencies the opportunity to enlist the assistance of other professional personnel such as victim advocates or prosecutorial staff trained in the interviewing of the dependent person.

(j) With respect to a dependent person who is a victim of a violent or sex crime, to receive either directly or through the dependent person's legal guardian, if applicable, at the time of reporting the crime to law enforcement officials, a written statement of the rights of dependent persons as provided in this chapter. The statement may be paraphrased to make it more easily understood. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county.

(2) Any party may request a preliminary hearing for the purpose of establishing accommodations for the dependent person consistent with, but not limited to, the rights enumerated in this section.

NEW SECTION. Sec. 4. (1) The prosecutor or defense may file a motion with the court at any time prior to commencement of the trial for an order authorizing the taking of a video tape deposition for the purpose of preserving the direct testimony of the moving party's witness if that witness is a dependent person.

(2) The court may grant the motion if the moving party shows that it is likely that the dependent person will be unavailable to testify at a subsequent trial. The court's finding shall be based upon, at a minimum, recommendations from the dependent person's physician or any other person having direct contact with the dependent person and whose recommendations are based on specific behavioral indicators exhibited by the dependent person.

(3) The moving party shall provide reasonable written notice to the other party of the motion and order, if granted, pursuant to superior court criminal rules for depositions.

(4) Both parties shall have an opportunity to be present at the deposition and the nonmoving party shall have the opportunity to cross-examine the dependent person.

(5) Under circumstances permitted by the rules of evidence, the deposition may be introduced as evidence in a subsequent proceeding if the dependent person is unavailable at trial and both the prosecutor and the defendant had notice of and an opportunity to participate in the taking of the deposition.

NEW SECTION. Sec. 5. (1) The failure to provide notice to a dependent person of the rights enumerated in this chapter or the failure to provide the rights enumerated shall not result in civil liability so long as the failure was in good faith.

(2) Nothing in this chapter shall be construed to limit a party's ability to bring an action, including an action for damages, based on rights conferred by other state or federal law.

NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 7 RCW.

NEW SECTION. **Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House April 19, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 382

[House Bill 2282]

ADULT CORRECTIONS—OFFENDER PROPERTY

AN ACT Relating to the costs of transporting offender property upon transfer; amending RCW 72.02.045; and declaring an emergency.

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

Sec. 1. RCW 72.02.045 and 1993 c 281 s 63 are each amended to read as follows:

The superintendent of each institution has the powers, duties, and responsibilities specified in this section.

(1) Subject to the rules of the department, the superintendent is responsible for the supervision and management of the institution, the grounds and buildings, the subordinate officers and employees, and the prisoners committed, admitted, or transferred to the institution.

(2) Subject to the rules of the department and the director of the division of prisons or his or her designee and the Washington personnel resources board, the superintendent shall appoint all subordinate officers and employees.

(3) The superintendent, subject to approval by the secretary, has the authority to determine the types and amounts of property that convicted persons may possess in department facilities. This authority includes the authority to determine the types and amounts that the department will transport at the department's expense whenever a convicted person is transferred between department institutions or to other jurisdictions. Convicted persons are responsible for the costs of transporting their excess property. If a convicted person fails to pay the costs of transporting any excess property within ninety days from the date of transfer, such property shall be presumed abandoned and may be disposed of in the manner allowed by RCW 63.42.040 (1) through (3). The superintendent shall be the custodian of all funds and valuable personal property of convicted persons as may be in their possession upon admission to the institution, or which may be sent or brought in to such persons, or earned by them while in custody, or which shall be forwarded to the superintendent on behalf of convicted persons. All such funds shall be deposited in the personal account of the convicted person and the superintendent shall have authority to disburse moneys from such person's personal account for the personal and incidental needs of the convicted person as may be deemed reasonably necessary. When convicted persons are released from the ~~((confines))~~ custody of the ~~((institution))~~ department either on parole, ~~((transfer))~~ community

placement, community custody, community supervision, or discharge, all funds and valuable personal property in the possession of the superintendent belonging to such convicted persons shall be delivered to them. In no case shall the state of Washington, or any state officer, including state elected officials, employees, or volunteers, be liable for the loss of such personal property, except upon a showing that the loss was occasioned by the intentional act, gross negligence, or negligence of the officer, official, employee, or volunteer, and that the actions or omissions occurred while the person was performing, or in good faith purporting to perform, his or her official duties. Recovery of damages for loss of personal property while in the custody of the superintendent under this subsection shall be limited to the lesser of the market value of the item lost at the time of the loss, or the original purchase price of the item or, in the case of hand-made goods, the materials used in fabricating the item.

(4) The superintendent, subject to the approval of the director of the division of prisons and the secretary, shall make, amend, and repeal rules for the administration, supervision, discipline, and security of the institution.

(5) When in the superintendent's opinion an emergency exists, the superintendent may promulgate temporary rules for the governance of the institution, which shall remain in effect until terminated by the director of the division of prisons or the secretary.

(6) The superintendent shall perform such other duties as may be prescribed.

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 11, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 383

[Substitute House Bill 2289]

RURAL HOSPITALS—MEDICAL ASSISTANCE

AN ACT Relating to hospital efficiencies; and amending RCW 74.09.5225.

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

Sec. 1. RCW 74.09.5225 and 2001 2nd sp.s. c 2 s 2 are each amended to read as follows:

(1) Payments for recipients eligible for medical assistance programs under this chapter for services provided by hospitals, regardless of the beneficiary's managed care enrollment status, shall be made based on allowable costs incurred during the year, when services are provided by a rural hospital certified by the (~~health care financing administration~~) centers for medicare and medicaid services as a critical access hospital. Any additional payments made by the medical assistance administration for the healthy options program shall be no more than the additional amounts per service paid under this section for other medical assistance programs.

(2) Beginning on the effective date of this section, a moratorium shall be placed on additional hospital participation in critical access hospital payments

under this section. However, rural hospitals that applied for certification to the centers for medicare and medicaid services prior to January 1, 2005, but have not yet completed the process or have not yet been approved for certification, remain eligible for medical assistance payments under this section.

Passed by the House April 19, 2005.

Passed by the Senate April 23, 2005.

Approved by the Governor May 10, 2005.

Filed in Office of Secretary of State May 10, 2005.

CHAPTER 384

[Second Substitute House Bill 1970]

GOVERNMENT ACCOUNTABILITY

AN ACT Relating to improving government management, accountability, and performance; adding new sections to chapter 43.17 RCW; and creating new sections.

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

NEW SECTION, Sec. 1. The legislature finds that:

(1) Citizens demand and deserve accountability of public programs and activities. Public programs must continuously improve accountability and performance reporting in order to increase public trust.

(2) Washington state government agencies must continuously improve their management and performance so citizens receive maximum value for their tax dollars.

(3) The application of best practices in performance management has improved results and accountability in many Washington state agencies and other jurisdictions.

(4) All Washington state agencies must develop a performance-based culture that can better demonstrate accountability and achievement.

NEW SECTION, Sec. 2. A new section is added to chapter 43.17 RCW to read as follows:

As used in sections 3 and 4 of this act:

(1) "State agency" or "agency" means a state agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education, and all offices of executive branch state government-elected officials, except agricultural commissions under Title 15 RCW.

(2) "Quality management, accountability, and performance system" means a nationally recognized integrated, interdisciplinary system of measures, tools, and reports used to improve the performance of a work unit or organization.

NEW SECTION, Sec. 3. A new section is added to chapter 43.17 RCW to read as follows:

(1) Each state agency shall, within available funds, develop and implement a quality management, accountability, and performance system to improve the public services it provides.

(2) Each agency shall ensure that managers and staff at all levels, including those who directly deliver services, are engaged in the system and shall provide managers and staff with the training necessary for successful implementation.

(3) Each agency shall, within available funds, ensure that its quality management, accountability, and performance system:

(a) Uses strategic business planning to establish goals, objectives, and activities consistent with the priorities of government, as provided in statute;

(b) Engages stakeholders and customers in establishing service requirements and improving service delivery systems;

(c) Includes clear, relevant, and easy-to-understand measures for each activity;

(d) Gathers, monitors, and analyzes activity data;

(e) Uses the data to evaluate the effectiveness of programs to manage process performance, improve efficiency, and reduce costs;

(f) Establishes performance goals and expectations for employees that reflect the organization's objectives; and provides for regular assessments of employee performance;

(g) Uses activity measures to report progress toward agency objectives to the agency director at least quarterly;

(h) Where performance is not meeting intended objectives, holds regular problem-solving sessions to develop and implement a plan for addressing gaps; and

(i) Allocates resources based on strategies to improve performance.

(4) Each agency shall conduct a yearly assessment of its quality management, accountability, and performance system.

(5) State agencies whose chief executives are appointed by the governor shall report to the governor on agency performance at least quarterly. The reports shall be included on the agencies', the governor's, and the office of financial management's web sites.

(6) The governor shall report annually to citizens on the performance of state agency programs. The governor's report shall include:

(a) Progress made toward the priorities of government as a result of agency activities; and

(b) Improvements in agency quality management systems, fiscal efficiency, process efficiency, asset management, personnel management, statutory and regulatory compliance, and management of technology systems.

(7) Each state agency shall integrate efforts made under this section with other management, accountability, and performance systems undertaken under executive order or other authority.

NEW SECTION. Sec. 4. A new section is added to chapter 43.17 RCW to read as follows:

Starting no later than 2008, and at least once every three years thereafter, each agency shall apply to the Washington state quality award, or similar organization, for an independent assessment of its quality management, accountability, and performance system. The assessment shall evaluate the effectiveness of all elements of its management, accountability, and performance system, including: Leadership, strategic planning, customer focus, analysis and information, employee performance management, and process improvement. The purpose of the assessment is to recognize best practice and identify improvement opportunities.

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, 2005, in the omnibus appropriations act, this act is null and void.

Passed by the House April 20, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 385

[Engrossed Substitute House Bill 1064]

GOVERNMENT ACCOUNTABILITY—CITIZEN ADVISORY BOARD

AN ACT Relating to improving government performance and accountability; adding new sections to chapter 43.09 RCW; adding a new section to chapter 43.88 RCW; adding a new section to chapter 2.56 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) Citizens demand and deserve accountability of public programs. Public programs must continuously improve in quality, efficiency, and effectiveness in order to increase public trust;

(2) Washington state government and other entities that receive tax dollars must continuously improve the way they operate and deliver services so citizens receive maximum value for their tax dollars;

(3) An independent citizen advisory board is necessary to ensure that government services, customer satisfaction, program efficiency, and management systems are world class in performance;

(4) Fair, independent, professional performance audits of state agencies are essential to improving the efficiency and effectiveness of government; and

(5) The performance audit activities of the joint legislative audit and review committee should be supplemented by making fuller use of the state auditor's resources and capabilities.

NEW SECTION. Sec. 2. A new section is added to chapter 43.09 RCW to read as follows:

For purposes of sections 3 through 6, 8, 9, and 11 of this act:

(1) "Board" means the citizen advisory board created in section 3 of this act.

(2) "Draft work plan" means the work plan for conducting performance audits of state agencies proposed by the board and state auditor after the statewide performance review.

(3) "Final performance audit report" means a written document jointly released by the citizen advisory board and the state auditor that includes the findings and comments from the preliminary performance audit report.

(4) "Final work plan" means the work plan for conducting performance audits of state agencies adopted by the board and state auditor.

(5) "Performance audit" means an objective and systematic assessment of a state agency or any of its programs, functions, or activities by an independent evaluator in order to help public officials improve efficiency, effectiveness, and accountability. Performance audits include economy and efficiency audits and program audits.

(6) "Preliminary performance audit report" means a written document prepared after the completion of a performance audit to be submitted for comment before the final performance audit report. The preliminary performance audit report must contain the audit findings and any proposed

recommendations to improve the efficiency, effectiveness, or accountability of the state agency being audited.

(7) "State agency" or "agency" means a state agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education. "State agency" includes all offices of executive branch state government elected officials.

NEW SECTION. Sec. 3. A new section is added to chapter 43.09 RCW to read as follows:

(1) The citizen advisory board is created to improve efficiency, effectiveness, and accountability in state government.

(2) The board shall consist of ten members as follows:

(a) One member shall be the state auditor, who shall be a nonvoting member;

(b) One member shall be the legislative auditor, who shall be a nonvoting member;

(c) One member shall be the director of the office of financial management, who shall be a nonvoting member;

(d) Four of the members shall be selected by the governor as follows: Each major caucus of the house of representatives and the senate shall submit a list of three names. The lists may not include the names of members of the legislature or employees of the state. The governor shall select a person from each list provided by each caucus; and

(e) The governor shall select three citizen members who are not state employees.

(3) The board shall elect a chair. The legislative auditor, the state auditor, and the director of the office of financial management may not serve as chair.

(4) Appointees shall be individuals who have a basic understanding of state government operations with knowledge and expertise in performance management, quality management, strategic planning, performance assessments, or closely related fields.

(5) Members selected under subsection (2)(d) and (e) of this section shall serve for terms of four years, with the terms expiring on June 30th on the fourth year of the term. However, in the case of the initial members, two members shall serve four-year terms, two members shall serve three-year terms, and one member shall serve a two-year term, with each of the terms expiring on June 30th of the applicable year. Appointees may be reappointed to serve more than one term.

(6) The office of the state auditor shall provide clerical, technical, and management personnel to the board to serve as the board's staff.

(7) The board shall meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the board.

(8) The members of the board shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

***NEW SECTION. Sec. 4.** A new section is added to chapter 43.09 RCW to read as follows:

The board shall establish an assessment and performance grading program. The program shall consist of conducting performance assessments and grading state agency performance. Assessments shall be implemented on a phased-in schedule. Initial areas to be assessed shall include quality management, productivity and fiscal efficiency, program effectiveness, contract management and oversight, internal audit, internal and external customer satisfaction, statutory and regulatory compliance, and technology systems and on-line services. As part of this program, the board shall:

(1) Consult with and seek input from elected officials, state employees including front-line employees, and professionals with a background in performance management for establishing the grading standards. In developing the criteria, the board shall consider already developed best practices and audit criteria used by government or nongovernment organizations. Before the assessment, the agencies shall be given the criteria for the assessment and the standards for grading;

(2) Contract or partner with those public or private entities that have expertise in developing public sector reviews applying fact-based objective criteria and/or technical expertise in individual assessment areas to perform the assessments and grading of all state agencies. The board may contract or partner with more than one entity for different assessment areas; and

(3) Submit the results of the assessment and grading program to the governor, the office of financial management, appropriate legislative committees, and the public by December 15th of each year. The results of the assessments and performance grading shall be posted on the internet.

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

NEW SECTION. Sec. 5. A new section is added to chapter 43.09 RCW to read as follows:

(1) The board and the state auditor shall collaborate with the joint legislative audit and review committee regarding performance audits of state government.

(a) The board shall establish criteria for performance audits consistent with the criteria and standards followed by the joint legislative audit and review committee. This criteria shall include, at a minimum, the auditing standards of the United States government accountability office, as well as legislative mandates and performance objectives established by state agencies and the legislature. Mandates include, but are not limited to, agency strategies, timelines, program objectives, and mission and goals as required in RCW 43.88.090.

(b) Using the criteria developed in (a) of this subsection, the state auditor shall contract for a statewide performance review to be completed as expeditiously as possible as a preliminary to a draft work plan for conducting performance audits. The board and the state auditor shall develop a schedule and common methodology for conducting these reviews. The purpose of these performance reviews is to identify those agencies, programs, functions, or activities most likely to benefit from performance audits and to identify likely areas warranting early review, taking into account prior performance audits, if any, and prior fiscal audits.

(c) The board and the state auditor shall develop the draft work plan for performance audits based on input from citizens, state employees, including front-line employees, state managers, chairs and ranking members of appropriate

legislative committees, the joint legislative audit and review committee, public officials, and others. The draft work plan may include a list of agencies, programs, or systems to be audited on a timeline decided by the board and the state auditor based on a number of factors including risk, importance, and citizen concerns. When putting together the draft work plan, there should be consideration of all audits and reports already required. On average, audits shall be designed to be completed as expeditiously as possible.

(d) Before adopting the final work plan, the board shall consult with the legislative auditor and other appropriate oversight and audit entities to coordinate work plans and avoid duplication of effort in their planned performance audits of state government agencies. The board shall defer to the joint legislative audit and review committee work plan if a similar audit is included on both work plans for auditing.

(e) The state auditor shall contract out for performance audits. In conducting the audits, agency front-line employees and internal auditors should be involved.

(f) All audits must include consideration of reports prepared by other government oversight entities.

(g) The audits may include:

(i) Identification of programs and services that can be eliminated, reduced, consolidated, or enhanced;

(ii) Identification of funding sources to the state agency, to programs, and to services that can be eliminated, reduced, consolidated, or enhanced;

(iii) Analysis of gaps and overlaps in programs and services and recommendations for improving, dropping, blending, or separating functions to correct gaps or overlaps;

(iv) Analysis and recommendations for pooling information technology systems used within the state agency, and evaluation of information processing and telecommunications policy, organization, and management;

(v) Analysis of the roles and functions of the state agency, its programs, and its services and their compliance with statutory authority and recommendations for eliminating or changing those roles and functions and ensuring compliance with statutory authority;

(vi) Recommendations for eliminating or changing statutes, rules, and policy directives as may be necessary to ensure that the agency carry out reasonably and properly those functions vested in the agency by statute;

(vii) Verification of the reliability and validity of agency performance data, self-assessments, and performance measurement systems as required under RCW 43.88.090;

(viii) Identification of potential cost savings in the state agency, its programs, and its services;

(ix) Identification and recognition of best practices;

(x) Evaluation of planning, budgeting, and program evaluation policies and practices;

(xi) Evaluation of personnel systems operation and management;

(xii) Evaluation of state purchasing operations and management policies and practices; and

(xiii) Evaluation of organizational structure and staffing levels, particularly in terms of the ratio of managers and supervisors to nonmanagement personnel.

(h) The state auditor must solicit comments on preliminary performance audit reports from the audited state agency, the office of the governor, the office of financial management, the board, the chairs and ranking members of appropriate legislative committees, and the joint legislative audit and review committee for comment. Comments must be received within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the state auditor. All comments shall be incorporated into the final performance audit report. The final performance audit report shall include the objectives, scope, and methodology; the audit results, including findings and recommendations; conclusions; and identification of best practices.

(i) The board and the state auditor shall jointly release final performance audit reports to the governor, the citizens of Washington, the joint legislative audit and review committee, and the appropriate standing legislative committees. Final performance audit reports shall be posted on the internet.

(j) For institutions of higher education, performance audits shall not duplicate, and where applicable, shall make maximum use of existing audit records, accreditation reviews, and performance measures required by the office of financial management, the higher education coordinating board, and nationally or regionally recognized accreditation organizations including accreditation of hospitals licensed under chapter 70.41 RCW and ambulatory care facilities.

(2) The citizen board created under RCW 44.75.030 shall be responsible for performance audits for transportation related agencies as defined under RCW 44.75.020.

NEW SECTION. Sec. 6. A new section is added to chapter 43.09 RCW to read as follows:

If the legislative authority of a local jurisdiction requests a performance audit of programs under its jurisdiction, the state auditor has the discretion to conduct such a review under separate contract and funded by local funds.

NEW SECTION. Sec. 7. A new section is added to chapter 43.88 RCW to read as follows:

In addition to the authority given the state auditor in RCW 43.88.160(6), the state auditor is authorized to contract for and oversee performance audits pursuant to section 5 of this act.

NEW SECTION. Sec. 8. A new section is added to chapter 43.09 RCW to read as follows:

By June 30, 2007, and each four years thereafter, the joint legislative audit and review committee shall contract with a private entity for a performance audit of the performance audit program established in section 5 of this act and the board's responsibilities under the performance audit program.

NEW SECTION. Sec. 9. A new section is added to chapter 43.09 RCW to read as follows:

The audited agency is responsible for follow-up and corrective action on all performance audit findings and recommendations. The audited agency's plan for addressing each audit finding and recommendation shall be included in the final audit report. The plan shall provide the name of the contact person responsible for each action, the action planned, and the anticipated completion date. If the audited agency does not agree with the audit findings and recommendations or

believes action is not required, then the action plan shall include an explanation and specific reasons.

For agencies under the authority of the governor, the governor may require periodic progress reports from the audited agency until all resolution has occurred.

For agencies under the authority of an elected official other than the governor, the appropriate elected official may require periodic reports of the action taken by the audited agency until all resolution has occurred.

The board may request status reports on specific audits or findings.

NEW SECTION. Sec. 10. A new section is added to chapter 2.56 RCW to read as follows:

The office of the administrator for the courts is encouraged to conduct performance audits of courts under the authority of the supreme court, in conformity with criteria and methods developed by the board for judicial administration that have been approved by the supreme court. In developing criteria and methods for conducting performance audits, the board for judicial administration is encouraged to consider quality improvement programs, audits, and scoring. The judicial branch is encouraged to submit the results of these efforts to the chief justice of the supreme court or his or her designee, and with any other applicable boards or committees established under the authority of the supreme court to oversee government accountability.

NEW SECTION. Sec. 11. A new section is added to chapter 43.09 RCW to read as follows:

(1) Each biennium the legislature shall appropriate such sums as may be necessary, not to exceed an amount equal to two one-hundredths of one percent of the total general fund state appropriation in that biennium's omnibus operating appropriations act for purposes of the performance review, performance audits, and activities of the board authorized by this chapter.

(2) The board and the state auditor shall submit recommended budgets for their responsibilities under sections 2 through 6, 8, and 9 of this act to the auditor, who shall then prepare a consolidated budget request, in the form of request legislation, to assist in determining the funding under subsection (1) of this section.

Passed by the House April 19, 2005.

Passed by the Senate April 7, 2005.

Approved by the Governor May 11, 2005, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 11, 2005.

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

"I am returning, without my approval as to Section 4, Engrossed Substitute House Bill No. 1064 entitled:

"AN ACT Relating to improving government performance and accountability."

This bill is an important step in strengthening accountability in state government agencies. Alongside the Government Management, Accountability, and Performance program (GMAP), the statewide performance audits contemplated in this bill usher in a new era of responsible state governance.

In discussion with our State Auditor, I have decided to veto Section 4 of this bill due to funding considerations. Section 4 establishes an assessment and grading program, and authorizes the citizen advisory board to contract each year for an assessment and grading of all agency management systems, as well as all agency technology, procurement, compliance monitoring, on-line contracting and internal audit systems. The performance assessment and grading program, if implemented in all agencies every year in a meaningful way, is likely to quickly exhaust the appropriated funding for performance audits.

In addition, with the passage of House Bill 1970, all agencies will be required to apply for an independent assessment of their management systems every three years. The assessments that would result will identify strengths and weaknesses in each agency's management systems, and will give agencies more actionable feedback on a regular basis. Section 4 of Engrossed Substitute House Bill No. 1064 therefore duplicates efforts that will be accomplished more costeffectively under House Bill 1970.

For these reasons, I have vetoed Section 4 of Engrossed Substitute House Bill No. 1064.

With the exception of Section 4, Engrossed Substitute House Bill No. 1064 is approved."

CHAPTER 386

[Engrossed Substitute House Bill 1242]

BIENNIAL BUDGET—PRIORITIES—REVIEW OF AGENCY REQUESTS

AN ACT Relating to focusing the state budgeting process on outcomes and priorities; amending RCW 43.88.090 and 43.88.030; adding a new section to chapter 43.88 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.88 RCW to read as follows:

The legislature finds that agency missions, goals, and objectives should focus on statewide results. It is the intent of the legislature to focus the biennial budget on how state agencies produce real results that reflect the goals of statutory programs. Specifically, budget managers and the legislature must have the data to move toward better statewide results that produce the intended public benefit. This data must be supplied in an impartial, quantifiable form, and demonstrate progress toward statewide results. With a renewed focus on achieving true results, state agencies, the office of financial management, and the legislature will be able to prioritize state resources.

Sec. 2. RCW 43.88.090 and 1997 c 372 s 1 are each amended to read as follows:

(1) For purposes of developing budget proposals to the legislature, the governor shall have the power, and it shall be the governor's duty, to require from proper agency officials such detailed estimates and other information in such form and at such times as the governor shall direct. The governor shall communicate statewide priorities to agencies for use in developing biennial budget recommendations for their agency and shall seek public involvement and input on these priorities. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget without revision. The estimates for state pension contributions shall be based on the rates provided in chapter 41.45 RCW. Copies of all such estimates shall be transmitted to the standing committees on ways and means of the house and senate at the same time as they are filed with the governor and the office of financial management.

The estimates shall include statements or tables which indicate, by agency, the state funds which are required for the receipt of federal matching revenues. The estimates shall be revised as necessary to reflect legislative enactments and adopted appropriations and shall be included with the initial biennial allotment submitted under RCW 43.88.110. The estimates must reflect that the agency considered any alternatives to reduce costs or improve service delivery identified in the findings of a performance audit of the agency by the joint legislative audit and review committee. Nothing in this subsection requires performance audit findings to be published as part of the budget.

(2) Each state agency shall define its mission and establish measurable goals for achieving desirable results for those who receive its services and the taxpayers who pay for those services. Each agency shall also develop clear strategies and timelines to achieve its goals. This section does not require an agency to develop a new mission or goals in place of identifiable missions or goals that meet the intent of this section. The mission and goals of each agency must conform to statutory direction and limitations.

(3) For the purpose of assessing ~~((program))~~ activity performance, each state agency shall establish ~~((program))~~ quality and productivity objectives for each major ~~((program))~~ activity in its budget. The objectives must be consistent with the missions and goals developed under this section. The objectives must be expressed to the extent practicable in outcome-based, objective, and measurable form unless an exception to adopt a different standard is granted by the office of financial management and approved by the legislative committee on performance review. Objectives must specifically address the statutory purpose or intent of the program or activity and focus on data that measure whether the agency is achieving or making progress toward the purpose of the activity and toward statewide priorities. The office of financial management shall provide necessary professional and technical assistance to assist state agencies in the development of strategic plans that include the mission of the agency and its programs, measurable goals, strategies, and performance measurement systems.

(4) Each state agency shall adopt procedures for and perform continuous self-assessment of each ~~((program and))~~ activity, using the mission, goals, objectives, and measurements required under subsections (2) and (3) of this section. The assessment of the activity must also include an evaluation of major information technology systems or projects that may assist the agency in achieving or making progress toward the activity purpose and statewide priorities. The evaluation of proposed major information technology systems or projects shall be in accordance with the standards and policies established by the information services board. Agencies' progress toward the mission, goals, objectives, and measurements required by subsections (2) and (3) of this section is subject to review as set forth in this subsection.

(a) The office of financial management shall regularly conduct reviews of selected activities to analyze whether the objectives and measurements submitted by agencies demonstrate progress toward statewide results.

(b) The office of financial management shall consult with the higher education coordinating board and the state board for community and technical colleges in those reviews that involve institutions of higher education.

(c) The goal is for all major activities to receive at least one review each year.

(d) The office of financial management shall consult with the information services board when conducting reviews of major information technology systems in use by state agencies. The goal is that reviews of these information technology systems occur periodically.

(5) It is the policy of the legislature that each agency's budget (~~(proposals)~~) recommendations must be directly linked to the agency's stated mission and program, quality, and productivity goals and objectives. Consistent with this policy, agency budget proposals must include integration of performance measures that allow objective determination of (~~(a program's)~~) an activity's success in achieving its goals. When a review under subsection (4) of this section or other analysis determines that the agency's objectives demonstrate that the agency is making insufficient progress toward the goals of any particular program or is otherwise underachieving or inefficient, the agency's budget request shall contain proposals to remedy or improve the selected programs. The office of financial management shall develop a plan to merge the budget development process with agency performance assessment procedures. The plan must include a schedule to integrate agency strategic plans and performance measures into agency budget requests and the governor's budget proposal over three fiscal biennia. The plan must identify those agencies that will implement the revised budget process in the 1997-1999 biennium, the 1999-2001 biennium, and the 2001-2003 biennium. In consultation with the legislative fiscal committees, the office of financial management shall recommend statutory and procedural modifications to the state's budget, accounting, and reporting systems to facilitate the performance assessment procedures and the merger of those procedures with the state budget process. The plan and recommended statutory and procedural modifications must be submitted to the legislative fiscal committees by September 30, 1996.

(6) In reviewing agency budget requests in order to prepare the governor's biennial budget request, the office of financial management shall consider the extent to which the agency's activities demonstrate progress toward the statewide budgeting priorities, along with any specific review conducted under subsection (4) of this section.

(7) In the year of the gubernatorial election, the governor shall invite the governor-elect or the governor-elect's designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or the governor-elect's designee with such information as will enable the governor-elect or the governor-elect's designee to gain an understanding of the state's budget requirements. The governor-elect or the governor-elect's designee may ask such questions during the hearings and require such information as the governor-elect or the governor-elect's designee deems necessary and may make recommendations in connection with any item of the budget which, with the governor-elect's reasons therefor, shall be presented to the legislature in writing with the budget document. Copies of all such estimates and other required information shall also be submitted to the standing committees on ways and means of the house and senate.

Sec. 3. RCW 43.88.030 and 2004 c 276 s 908 are each amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the

director at least three months before agency budget documents are due into the office of financial management. The director shall provide agencies and committees that are required under RCW 44.40.070 to develop comprehensive six-year program and financial plans with a complete set of instructions for submitting these program and financial plans at the same time that instructions for submitting other budget requests are provided. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The biennial budget document or documents shall also describe performance indicators that demonstrate measurable progress towards priority results. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and programs for which the forecast councils do not prepare an official forecast, including those revenues anticipated to support the six-year programs and financial plans under RCW 44.40.070. In estimating revenues to support financial plans under RCW 44.40.070, the office of financial management shall rely on information and advice from the transportation revenue forecast council. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources and at existing rates for those agencies required to submit six-year program and financial plans under RCW 44.40.070. Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, those

anticipated for the ensuing biennium, and those anticipated for the ensuing six-year period to support the six-year programs and financial plans required under RCW 44.40.070;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, ~~((activity,))~~ and agency ~~((- However, documents submitted for the 2005-07 biennial budget request need not show expenditures by activity));~~

~~(f) ((A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained))~~ The expenditures that include nonbudgeted, nonappropriated accounts outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments, and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium, as well as those required to support the six-year programs and financial plans required under RCW 44.40.070;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the

retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) The governor's operating budget document or documents shall reflect the statewide priorities as required by RCW 43.88.090.

(4) The governor's operating budget document or documents shall identify activities that are not addressing the statewide priorities.

(5) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan shall include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;

(e) A statement of the reason or purpose for a project;

(f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(g) A statement about the proposed site, size, and estimated life of the project, if applicable;

(h) Estimated total project cost;

(i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(j) Estimated total project cost for each phase of the project as defined by the office of financial management;

(k) Estimated ensuing biennium costs;

(l) Estimated costs beyond the ensuing biennium;

(m) Estimated construction start and completion dates;

(n) Source and type of funds proposed;

(o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat

conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(q) Such other information bearing upon capital projects as the governor deems to be useful;

(r) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;

(s) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (~~((3))~~) (5), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative transportation committee, legislative evaluation and accountability program committee, and office of financial management.

~~((4))~~ (6) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

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, 2005, in the omnibus appropriations act, this act is null and void.

Passed by the House February 14, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 387

[Substitute House Bill 1856]

INDUSTRIAL INSURANCE—AUDITS

AN ACT Relating to industrial insurance fund audits; amending RCW 43.09.310; and adding a new section to chapter 51.44 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 51.44 RCW to read as follows:

(1) The department shall:

(a) Prepare financial statements on the state fund in accordance with generally accepted accounting principles, including but not limited to financial statements on the accident fund, the medical aid fund, the supplemental pension fund, and the second injury fund. Statements must be presented separately by fund and in the aggregate; and

(b) Prepare financial information for the accident fund, medical aid fund, and pension reserve fund based on statutory accounting practices and principles promulgated by the national association of insurance commissioners for the purpose of maintaining actuarial solvency of these funds.

(2) Beginning in 2006, and, to avoid duplication, coordinated with any audit that may be conducted under RCW 43.09.310, the state auditor shall conduct annual audits of the state fund. As part of the audits required under this section, the state auditor may contract with firms qualified to perform all or part of the financial audit, as necessary.

(a) The firm or firms conducting the reviews shall be familiar with the accounting standards applicable to the accounts under review and shall have experience in workers' compensation reserving, discounting, and rate making.

(b) The scope of the financial audit shall include, but is not limited to:

(i) An opinion on whether the financial statements were prepared in accordance with generally accepted accounting principles;

(ii) An assessment of the financial impact of the proposed rate level on the actuarial solvency of the accident, medical aid, and pension reserve funds, taking into consideration the risks inherent with insurance and the effects of the actuarial assumptions, discount rates, reserving, retrospective rating program, refunds, and individual employer rate classes, as well as the standard accounting principles used for insurance underwriting purposes; and

(iii) A statement of actuarial opinion on whether the loss and loss adjustment expense reserves for the accident, medical aid, and pension reserve funds were prepared in accordance with generally accepted actuarial principles.

(c) The department shall cooperate with the state auditor in all respects and shall permit the state auditor full access to all information deemed necessary for a true and complete review.

(d) The cost of the audit shall be paid by the state fund under separate contract.

(3) The state auditor shall issue an annual report to the governor, the leaders of the majority and minority caucuses in the senate and the house of representatives, the director of the office of financial management, and the director of the department, on the results of the financial audit and reviews, within six months of the end of the fiscal year. The report may include recommendations.

(4) The audit report shall be available for public inspection.

(5) Within ninety days after the state auditor completes and delivers to the appropriate authority an audit under subsection (2) of this section, the director of the department shall notify the state auditor in writing of the measures taken and proposed to be taken, if any, to respond to the recommendations of the audit report. The state auditor may extend the ninety-day period for good cause.

Sec. 2. RCW 43.09.310 and 1996 c 288 s 35 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the state auditor shall annually audit the statewide combined financial statements prepared by the office of financial management and make post-audits of state agencies. Post-audits of state agencies shall be made at such periodic intervals as is determined by the state auditor. Audits of combined financial statements shall include determinations as to the validity and accuracy of accounting methods, procedures and standards utilized in their preparation, as well as the accuracy of the financial statements themselves. A report shall be made of each such audit and post-audit upon completion thereof, and one copy shall be transmitted to the governor, one to the director of financial management, one to the state agency audited, one to the joint legislative audit and review committee, one each to the standing committees on ways and means of the house and senate, one to the chief clerk of the house, one to the secretary of the senate, and at least one shall be kept on file in the office of the state auditor. A copy of any report containing findings of noncompliance with state law shall be transmitted to the attorney general.

(2) Audits of the department of labor and industries must be coordinated with the audits required under section 1 of this act to avoid duplication of audits.

Passed by the House April 18, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 388

[Engrossed Substitute House Bill 2266]

METHAMPHETAMINE—SALE OF EPHEDRINE, PSEUDOEPHEDRINE, AND PHENYLPROPANOLAMINE

AN ACT Relating to the sale of ephedrine, pseudoephedrine, and phenylpropanolamine; amending RCW 69.43.110, 18.64.044, 18.64.046, and 18.64.047; adding new sections to chapter 69.43 RCW; creating new sections; prescribing penalties; providing effective dates; and declaring an emergency.

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

NEW SECTION, Sec. 1. Restricting access to certain precursor drugs used to manufacture methamphetamine to ensure that they are only sold at retail to individuals who will use them for legitimate purposes upon production of proper identification is an essential step to controlling the manufacture of methamphetamine.

NEW SECTION, Sec. 2. A new section is added to chapter 69.43 RCW to read as follows:

(1) For purposes of this section, "traditional Chinese herbal practitioner" means a person who is certified as a diplomate in Chinese herbology from the national certification commission for acupuncture and oriental medicine or who has received a certificate in Chinese herbology from a school accredited by the accreditation council on acupuncture and oriental medicine.

(2) A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese

herbal practitioner may not knowingly sell, transfer, or otherwise furnish to any person a product at retail that he or she knows to contain any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, without first obtaining photo identification of the person that shows the date of birth of the person.

(3) A person buying or receiving a product at retail containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, from a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner must first produce photo identification of the person that shows the date of birth of the person.

(4) Any product containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall be kept in a central location that is not accessible by customers without assistance of an employee of the merchant.

(5) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may sell any product containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, to a person that is not at least eighteen years old.

(6) The board of pharmacy, by rule, may exempt products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in combination with another active ingredient from the requirements of this section if they are found not to be used in the illegal manufacture of methamphetamine or other controlled dangerous substances. A manufacturer of a drug product may apply for removal of the product from the requirements of this section if the product is determined by the board to have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine. The burden of proof for exemption is upon the person requesting the exemption. The petitioner shall provide the board with evidence that the product has been formulated in such a way as to serve as an effective general deterrent to the conversion of pseudoephedrine into methamphetamine. The evidence must include the furnishing of a valid scientific study, conducted by an independent, professional laboratory and evincing professional quality chemical analysis. Factors to be considered in whether a product should be excluded from this section include but are not limited to:

- (a) Ease with which the product can be converted to methamphetamine;
- (b) Ease with which ephedrine, pseudoephedrine, or phenylpropanolamine is extracted from the substance and whether it forms an emulsion, salt, or other form;
- (c) Whether the product contains a "molecular lock" that renders it incapable of being converted into methamphetamine;
- (d) Presence of other ingredients that render the product less likely to be used in the manufacture of methamphetamine; and

(e) Any pertinent data that can be used to determine the risk of the substance being used in the illegal manufacture of methamphetamine or any other controlled substance.

(7) Nothing in this section applies:

(a) To any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers that is not the only active ingredient and that is in liquid, liquid capsule, or gel capsule form;

(b) To the sale of a product that may only be sold upon the presentation of a prescription;

(c) To the sale of a product by a traditional Chinese herbal practitioner to a patient; or

(d) When the details of the transaction are recorded in a pharmacy profile individually identified with the recipient and maintained by a licensed pharmacy.

(8)(a) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may retaliate against any employee that has made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification, making a reasonable effort to determine the customer's age.

(b) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner is subject to prosecution under subsection (9) of this section if they made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification, making a reasonable effort to determine the customer's age.

(9) A violation of this section is a gross misdemeanor.

NEW SECTION. Sec. 3. A new section is added to chapter 69.43 RCW to read as follows:

(1) The Washington association of sheriffs and police chiefs or the Washington state patrol may petition the state board of pharmacy to apply the log requirements in section 8 of this act to one or more products that contain ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, that is not the only active ingredient and that is in liquid, liquid capsule, or gel capsule form. The petition shall establish that:

(a) Ephedrine, pseudoephedrine, or phenylpropanolamine can be effectively extracted from the product and converted into methamphetamine or another controlled dangerous substance; and

(b) Law enforcement, the Washington state patrol, or the department of ecology are finding substantial evidence that the product is being used for the illegal manufacture of methamphetamine or another controlled dangerous substance.

(2) The board of pharmacy shall adopt rules when a petition establishes that requiring the application of the log requirements in section 8 of this act to the sale of the product at retail is warranted based upon the effectiveness and extent of use of the product for the illegal manufacture of methamphetamine or other controlled dangerous substances and the extent of the burden of any restrictions upon consumers. The board of pharmacy may adopt emergency rules to apply

the log requirements to the sale of a product when the petition establishes that the immediate restriction of the product is necessary in order to protect public health and safety.

Sec. 4. RCW 69.43.110 and 2004 c 52 s 5 are each amended to read as follows:

(1) It is unlawful for a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, or a practitioner as defined in RCW 18.64.011, knowingly to sell, transfer, or to otherwise furnish, in a single transaction:

(a) More than (~~three~~) two packages of one or more products that he or she knows to contain ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers; or

(b) A single package of any product that he or she knows to contain more than three grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances.

(2) It is unlawful for a person who is not a manufacturer, wholesaler, pharmacy, practitioner, shopkeeper, or itinerant vendor licensed by or registered with the department of health under chapter 18.64 RCW to purchase or acquire, in any twenty-four hour period, more than the quantities of the substances specified in subsection (1) of this section.

(3) It is unlawful for any person to sell or distribute any of the substances specified in subsection (1) of this section unless the person is licensed by or registered with the department of health under chapter 18.64 RCW, or is a practitioner as defined in RCW 18.64.011.

(4) A violation of this section is a gross misdemeanor.

Sec. 5. RCW 18.64.044 and 2004 c 52 s 2 are each amended to read as follows:

(1) A shopkeeper registered as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer.

(2) Every shopkeeper not a licensed pharmacist, desiring to secure the benefits and privileges of this section, is hereby required to register as a shopkeeper through the master license system, and he or she shall pay the fee determined by the secretary for registration, and on a date to be determined by the secretary thereafter the fee determined by the secretary for renewal of the registration; and shall at all times keep said registration or the current renewal thereof conspicuously exposed in the location to which it applies. In event such shopkeeper's registration is not renewed by the master license expiration date, no renewal or new registration shall be issued except upon payment of the registration renewal fee and the master license delinquency fee under chapter 19.02 RCW. This registration fee shall not authorize the sale of legend drugs or controlled substances.

(3) The registration fees determined by the secretary under subsection (2) of this section shall not exceed the cost of registering the shopkeeper.

(4) Any shopkeeper who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

(5) A shopkeeper who is not a licensed pharmacy may purchase products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The board shall issue a warning to a shopkeeper who violates this subsection, and may suspend or revoke the registration of the shopkeeper for a subsequent violation.

(6) A shopkeeper who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ten percent of the shopkeeper's total prior monthly sales of nonprescription drugs in March through October. In November through February, the shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed twenty percent of the shopkeeper's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. The board may suspend or revoke the registration of a shopkeeper who violates this subsection.

(b) The shopkeeper shall maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the board. The records must be available for inspection by the board or any law enforcement agency and must be maintained for two years. The board may suspend or revoke the registration of a shopkeeper who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor.

Sec. 6. RCW 18.64.046 and 2004 c 52 s 3 are each amended to read as follows:

(1) The owner of each place of business which sells legend drugs and nonprescription drugs, or nonprescription drugs at wholesale shall pay a license fee to be determined by the secretary, and thereafter, on or before a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280, a like fee to be determined by the secretary, for which the owner shall receive a license of location from the department, which shall entitle such owner to either sell legend drugs and nonprescription drugs or nonprescription drugs at wholesale at the location specified for the period ending on a date to be determined by the secretary, and each such owner shall at the time of payment of such fee file with the department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the department of any change of location and ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business.

(2) Failure to conform with this section is a misdemeanor, and each day that the failure continues is a separate offense.

(3) In event the 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.

(4) No wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products to persons within the state of Washington exceed five percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state in March through October. In November through February, no wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers if the total monthly sales of these products to persons within the state of Washington exceed ten percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state. For purposes of this section, monthly sales means total dollars paid by buyers. The board may suspend or revoke the license of any wholesaler that violates this section.

(5) The board may exempt a wholesaler from the limitations of subsection (4) of this section if it finds that the wholesaler distributes nonprescription drugs only through transactions between divisions, subsidiaries, or related companies when the wholesaler and the retailer are related by common ownership, and that neither the wholesaler nor the retailer has a history of suspicious transactions in precursor drugs as defined in RCW 69.43.035.

(6) The requirements for a license apply to all persons, in Washington and outside of Washington, who sell both legend drugs and nonprescription drugs and to those who sell only nonprescription drugs, at wholesale to pharmacies, practitioners, and shopkeepers in Washington.

(7)(a) No wholesaler may sell any (~~(quantity)~~) product containing any detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, to any person in Washington other than a pharmacy licensed under this chapter, a shopkeeper or itinerant vendor registered under this chapter, (~~(or)~~) a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner as defined in section 2 of this act.

(b) A violation of this subsection is punishable as a class C felony according to chapter 9A.20 RCW, and each sale in violation of this subsection constitutes a separate offense.

Sec. 7. RCW 18.64.047 and 2004 c 52 s 4 are each amended to read as follows:

(1) Any itinerant vendor or any peddler of any nonprescription drug or preparation for the treatment of disease or injury, shall pay a registration fee determined by the secretary on a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280. The department may issue a registration to such vendor on an approved application made to the department.

(2) Any itinerant vendor or peddler who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, is guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

(3) In event the registration fee remains unpaid on the date due, no renewal or new registration 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. This registration shall not authorize the sale of legend drugs or controlled substances.

(4) An itinerant vendor may purchase products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The board shall issue a warning to an itinerant vendor who violates this subsection, and may suspend or revoke the registration of the vendor for a subsequent violation.

(5) An itinerant vendor who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The itinerant vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ten percent of the vendor's total prior monthly sales of nonprescription drugs in March through October. In November through February, the vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed twenty percent of the vendor's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. The board may suspend or revoke the registration of an itinerant vendor who violates this subsection.

(b) The itinerant vendor shall maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the board. The records must be available for inspection by the board or any law enforcement agency and must be maintained for two years. The board may suspend or revoke the registration of an itinerant vendor who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor.

NEW SECTION. Sec. 8. A new section is added to chapter 69.43 RCW to read as follows:

(1) The state board of pharmacy, using procedures under chapter 34.05 RCW, shall implement and conduct a statewide pilot project requiring the collection and maintenance of written or electronic logs or other alternative means of recording retail transactions involving ephedrine, pseudoephedrine, or phenylpropanolamine. The rules implementing the pilot project shall be in place by January 1, 2006.

(2) The pilot project shall be designed to address:

(a) Whether a log or other means of recording a transaction is an effective law enforcement tool;

(b) What information is needed to make logs or other means of recording a transaction useful as a deterrent to criminal activity;

(c) The most effective method of obtaining, recording, and storing log or other electronic data in the least intrusive manner available;

(d) How long the information recorded in the logs or other means of recording a transaction should be maintained; and

(e) How logs or other means of recording a transaction can be most effectively transmitted to law enforcement and the state board of pharmacy.

(3) The board shall convene a work group to evaluate the data collected during the pilot project. The work group shall consist of:

(a) One representative from law enforcement appointed by the Washington association of sheriffs and police chiefs;

(b) One representative from the Washington state patrol;

(c) One representative appointed by the Washington association of prosecuting attorneys;

(d) One representative appointed by the office of the attorney general;

(e) One representative appointed by the state board of pharmacy; and

(f) Two representatives from the retail industry.

(4) The state board of pharmacy shall begin data collection for the pilot project no later than January 1, 2006, and report to the legislature no later than November 1, 2007, regarding the findings of the work group along with any recommendations or proposed legislation.

(5) Any orders and rules adopted under this section not in conflict with state law continue in effect until modified, superseded, or repealed. The board may implement rule changes based upon the results of the pilot project and recommendations of the work group.

(6)(a) The records required by this section are for the confidential use of the pharmacy, shopkeeper, or itinerant vendor, except that:

(i) Every pharmacy, shopkeeper, or itinerant vendor shall produce the records in court whenever lawfully required to do so;

(ii) The records shall be open for inspection by the board of pharmacy; and

(iii) The records shall be open for inspection by any general or limited authority Washington peace officer to enforce the provisions of this chapter.

(b) A person violating this subsection is guilty of a misdemeanor.

NEW SECTION. Sec. 9. Each county sheriff shall compile and maintain a record of commercial products containing ephedrine, pseudoephedrine, or phenylpropanolamine and packaging found at methamphetamine laboratory sites. The data shall be forwarded to the Washington association of sheriffs and police chiefs and shall be reported to the legislature by November 1, 2007, and annually thereafter.

NEW SECTION. Sec. 10. 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. 11. (1) Section 2 of this act takes effect October 1, 2005.

(2) Sections 1, 3 through 7, 9, and 10 of this act take effect January 1, 2006.

(3) Section 8 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 23, 2005.

Passed by the Senate April 23, 2005.

Approved by the Governor May 11, 2005.
 Filed in Office of Secretary of State May 11, 2005.

CHAPTER 389

[House Bill 2189]

CHILD PROTECTIVE SERVICES—STAFF SAFETY

AN ACT Relating to the safety of child protective services and child welfare services staff; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that efforts to protect children from abuse and neglect and support families are dependent upon the efforts of staff in the field who work directly with the children and families of this state. Child protective services staff investigate reports of suspected child abuse and neglect and, when necessary, intervene by providing services designed to increase children's safety and protect them from further harm. Child welfare services staff provide longer-term services to families, including intensive treatment services to children and families who may need help with chronic or serious problems that interfere with their ability to protect or parent children.

The legislature determines that in order to perform their work, the safety of child protective services and child welfare services staff must be addressed.

NEW SECTION. Sec. 2. (1) The department of social and health services shall establish a work group to develop policies and protocols to address the safety of child protective services and child welfare services staff.

(2) The department of social and health services shall make recommendations regarding training to address recognition of highly volatile, hostile, and/or threatening situations and de-escalation and preventive safety measures.

(3) Membership of the work group shall include the following: Representatives of the children's administration of the department of social and health services, including representatives of child protective services staff and child welfare services staff from community service offices in largely rural areas of the state as well as urban areas; law enforcement; and prosecuting attorneys.

(4) The department of social and health services shall provide the developed recommendations, policies, and protocols to the governor and the appropriate committees of the legislature by December 1, 2005.

Passed by the House April 19, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 390

[Substitute House Bill 1711]

PARKING—PERSONS WITH DISABILITIES

AN ACT Relating to parking places for persons with disabilities; amending RCW 46.61.581, 46.16.381, 46.16.385, and 46.16.390; and reenacting and amending RCW 46.55.113 and 73.04.110.

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

Sec. 1. RCW 46.61.581 and 1998 c 294 s 2 are each amended to read as follows:

A parking space or stall for a ~~((disabled))~~ person with a disability shall be indicated by a vertical sign(~~((between thirty six and eighty four inches off the ground.))~~) with the international symbol of access, whose colors are white on a blue background, described under RCW 70.92.120 (~~and the notice "State disabled parking permit required."~~). The sign may include additional language such as, but not limited to, an indication of the amount of the monetary penalty defined in RCW 46.16.381 for parking in the space without a valid permit.

Failure of the person owning or controlling the property where required parking spaces are located to erect and maintain the sign is a class 2 civil infraction under chapter 7.80 RCW for each parking space that should be so designated. The person owning or controlling the property where the required parking spaces are located shall ensure that the parking spaces are not blocked or made inaccessible, and failure to do so is a class 2 civil infraction.

Sec. 2. RCW 46.16.381 and 2004 c 222 s 2 are each amended to read as follows:

(1) The director shall grant special parking privileges to any person who has a disability that limits or impairs the ability to walk and meets one of the following criteria, as determined by a licensed physician or an advanced registered nurse practitioner licensed under chapter 18.79 RCW:

- (a) Cannot walk two hundred feet without stopping to rest;
- (b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;
- (c) Is so severely disabled, that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;
- (d) Uses portable oxygen;
- (e) Is restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;
- (f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American Heart Association; or
- (g) Has a disability resulting from an acute sensitivity to automobile emissions which limits or impairs the ability to walk. The personal physician or advanced registered nurse practitioner of the applicant shall document that the disability is comparable in severity to the others listed in this subsection.

(2) The applications for ~~((disabled))~~ parking permits for persons with disabilities and ~~((temporary disabled))~~ parking permits for persons with temporary disabilities are official state documents. Knowingly providing false information in conjunction with the application is a gross misdemeanor punishable under chapter 9A.20 RCW. The following statement must appear on each application form immediately below the physician's or advanced registered nurse practitioner's signature and immediately below the applicant's signature: "A ~~((disabled))~~ parking permit for a person with disabilities may be issued only for a medical necessity that severely affects mobility (RCW 46.16.381). Knowingly providing false information on this application is a gross

misdemeanor. The penalty is up to one year in jail and a fine of up to \$5,000 or both."

(3) Persons who qualify for special parking privileges are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and an individual serial number, along with a special identification card bearing the name and date of birth of the person to whom the placard is issued, and the placard's serial number. The special identification card shall be issued no later than January 1, 2000, to all persons who are issued parking placards, including those issued for temporary disabilities, and special ~~((disabled))~~ parking license plates for persons with disabilities. The department shall design the placard to be displayed when the vehicle is parked by suspending it from the rearview mirror, or in the absence of a rearview mirror the card may be displayed on the dashboard of any vehicle used to transport the ~~((disabled))~~ person with disabilities. Instead of regular motor vehicle license plates, ~~((disabled))~~ persons with disabilities are entitled to receive special license plates under this section or RCW 46.16.385 bearing the international symbol of access for one vehicle registered in the ~~((disabled person's))~~ name of the person with disabilities. ~~((Disabled))~~ Persons with disabilities who are not issued the special license plates are entitled to receive a second special placard upon submitting a written request to the department. Persons who have been issued the parking privileges and who are using a vehicle or are riding in a vehicle displaying the placard or special license plates issued under this section or RCW 46.16.385 may park in places reserved for ~~((mobility disabled))~~ persons with physical disabilities. The director shall adopt rules providing for the issuance of special placards and license plates to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen centers, private nonprofit agencies as defined in chapter 24.03 RCW, and vehicles registered with the department as cabulances that regularly transport ~~((disabled))~~ persons with disabilities who have been determined eligible for special parking privileges provided under this section. The director may issue special license plates for a vehicle registered in the name of the public transportation authority, nursing home, boarding home~~((s))~~, senior citizen center, private nonprofit agency, or cabulance service if the vehicle is primarily used to transport persons with disabilities described in this section. Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit agencies, and cabulance services are responsible for insuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

(4) Whenever the ~~((disabled))~~ person with disabilities transfers or assigns his or her interest in the vehicle, the special license plates shall be removed from the motor vehicle. If another vehicle is acquired by the ~~((disabled))~~ person with disabilities and the vehicle owner qualifies for a special plate, the plate shall be attached to the vehicle, and the director shall be immediately notified of the transfer of the plate. If another vehicle is not acquired by the ~~((disabled))~~ person with disabilities, the removed plate shall be immediately surrendered to the director.

(5) The special license plate shall be renewed in the same manner and at the time required for the renewal of regular motor vehicle license plates under this

chapter. No special license plate may be issued to a person who is temporarily disabled. A person who has a condition expected to improve within six months may be issued a temporary placard for a period not to exceed six months. If the condition exists after six months a new temporary placard shall be issued upon receipt of a new certification from the ~~((disabled))~~ person's physician. The permanent parking placard and identification card of a ~~((disabled))~~ person with disabilities shall be renewed at least every five years, as required by the director, by satisfactory proof of the right to continued use of the privileges. In the event of the permit holder's death, the parking placard and identification card must be immediately surrendered to the department. The department shall match and purge its ~~((disabled permit))~~ data base of parking permits issued to persons with disabilities with available death record information at least every twelve months.

(6) Each person with disabilities who has been issued a permanent ~~((disabled))~~ parking permit on or before July 1, 1998, must renew the permit no later than July 1, 2003, subject to a schedule to be set by the department, or the permit will expire.

(7) Additional fees shall not be charged for the issuance of the special placards or the identification cards. No additional fee may be charged for the issuance of the special license plates except the regular motor vehicle registration fee and any other fees and taxes required to be paid upon registration of a motor vehicle.

(8) Any unauthorized use of the special placard, special license plate issued under this section or RCW 46.16.385, or identification card is a traffic infraction with a monetary penalty of two hundred fifty dollars.

(9) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for a person to make inaccessible the access aisle located next to a space reserved for ~~((physically disabled))~~ persons with physical disabilities. The clerk of the court shall report all violations related to this subsection to the department.

(10) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for ~~((physically disabled))~~ persons with physical disabilities without a placard or special license plate issued under this section or RCW 46.16.385. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the placard or special license plate issued under this section or RCW 46.16.385 required under this section. A local jurisdiction providing nonmetered, on-street parking places reserved for ~~((physically disabled))~~ persons with physical disabilities may impose by ordinance time restrictions of no less than four hours on the use of these parking places. A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards or special license plates issued under this section or RCW 46.16.385. All time restrictions must be clearly posted.

(11) The penalties imposed under subsections (9) and (10) of this section shall be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs it may have incurred in removal and storage of the improperly parked vehicle.

(12) Except as provided by subsection (2) of this section, it is a traffic infraction with a monetary penalty of two hundred fifty dollars for any person willfully to obtain a special license plate issued under this section or RCW 46.16.385, placard, or identification card in a manner other than that established under this section.

(13)(a) A law enforcement agency authorized to enforce parking laws may appoint volunteers, with a limited commission, to issue notices of infractions for violations of this section or RCW 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications the agency deems desirable.

(b) An agency appointing volunteers under this section must provide training to the volunteers before authorizing them to issue notices of infractions.

(c) A notice of infraction issued by a volunteer appointed under this subsection has the same force and effect as a notice of infraction issued by a police officer for the same offense.

(d) A police officer or a volunteer may request a person to show the person's identification card or special parking placard when investigating the possibility of a violation of this section. If the request is refused, the person in charge of the vehicle may be issued a notice of infraction for a violation of this section.

(14) For second or subsequent violations of this section, in addition to a monetary fine, the violator must complete a minimum of forty hours of:

(a) Community restitution for a nonprofit organization that serves ~~((the disabled community or))~~ persons having disabilities or disabling diseases; or

(b) Any other community restitution that may sensitize the violator to the needs and obstacles faced by persons who have disabilities.

(15) The court may not suspend more than one-half of any fine imposed under subsection (8), (9), (10), or (12) of this section.

Sec. 3. RCW 46.16.385 and 2004 c 222 s 1 are each amended to read as follows:

(1) The department shall design and issue ~~((disabled parking emblem))~~ versions of special license plates including the international symbol of access described in RCW 70.92.120 for plates issued under (a) RCW 46.16.301; (b) RCW 46.16.305, except those plates issued under RCW 46.16.305 (1) and (2); (c) RCW 46.16.324; (d) RCW 46.16.745; (e) RCW 73.04.110; (f) RCW 73.04.115; or (g) RCW 46.16.301(1) (a), (b), or (c), as it existed before amendment by section 5, chapter 291, Laws of 1997. The ~~((disabled parking emblem))~~ version of the special plate ~~((must display))~~ including the ((universal)) international symbol of access ((that)) may be used in lieu of the parking placard issued to persons who qualify for special parking privileges under RCW 46.16.381. The department may not charge an additional fee for the issuance of the special ~~((disabled parking emblem))~~ license plate including the international symbol of access, except the regular motor vehicle registration fee, the fee associated with the particular special plate, and any other fees and taxes required to be paid upon registration of a motor vehicle. The ~~((emblem))~~ international symbol of access must be incorporated into the design of the special license plate in a manner to be determined by the department, and under existing vehicular licensing procedures and existing laws.

(2) Persons who qualify for special parking privileges under RCW 46.16.381, and who have applied and paid the appropriate fee for any of the

special license plates listed in subsection (1) of this section, are entitled to receive from the department a special ~~((disabled parking emblem))~~ license plate including the international symbol of access. The special ~~((disabled parking emblem))~~ license plate including the international symbol of access may be used for one vehicle registered in the ~~((disabled person's))~~ name of the person with the disability. Persons who have been issued the parking privileges or who are using a vehicle displaying the special ~~((disabled parking emblem))~~ license plate including the international symbol of access may park in places reserved for ~~((mobility disabled))~~ persons with physical disabilities.

(3) ~~((The))~~ Special ~~((disabled parking emblem))~~ license plates including the international symbol of access must be administered in the same manner as ~~((the))~~ plates issued under RCW 46.16.381.

(4) The department shall adopt rules to implement this section.

Sec. 4. RCW 46.16.390 and 1991 c 339 s 22 are each amended to read as follows:

A special license plate or card issued by another state or country that indicates an occupant of the vehicle ~~((is disabled))~~ has disabilities, entitles the vehicle on or in which it is displayed and being used to transport the ~~((disabled))~~ person with disabilities to lawfully park in a parking place reserved for ~~((physically disabled))~~ persons with physical disabilities pursuant to chapter 70.92 RCW or authority implemental thereof.

Sec. 5. RCW 46.55.113 and 2003 c 178 s 1 and 2003 c 177 s 1 are each reenacted and amended to read as follows:

(1) Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.502, 46.61.504, 46.20.342, or 46.20.345, the vehicle is subject to summary impoundment, pursuant to the terms and conditions of an applicable local ordinance or state agency rule at the direction of a law enforcement officer.

(2) In addition, a police officer may take custody of a vehicle, at his or her discretion, and provide for its prompt removal to a place of safety under any of the following circumstances:

(a) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(b) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(c) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;

(d) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;

(e) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(f) Whenever a vehicle without a special license plate, ~~((card))~~ placard, or decal indicating that the vehicle is being used to transport a ~~((disabled))~~ person with disabilities under RCW 46.16.381 is parked in a stall or space clearly and

conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;

(g) Upon determining that a person is operating a motor vehicle without a valid driver's license in violation of RCW 46.20.005 or with a license that has been expired for ninety days or more;

(h) When a vehicle is illegally occupying a truck, commercial loading zone, restricted parking zone, bus, loading, hooded-meter, taxi, street construction or maintenance, or other similar zone where, by order of the director of transportation or chiefs of police or fire or their designees, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at all times, if the zone has been established with signage for at least twenty-four hours and where the vehicle is interfering with the proper and intended use of the zone. Signage must give notice to the public that a vehicle will be removed if illegally parked in the zone.

(3) When an arrest is made for a violation of RCW 46.20.342, if the vehicle is a commercial vehicle and the driver of the vehicle is not the owner of the vehicle, before the summary impoundment directed under subsection (1) of this section, the police officer shall attempt in a reasonable and timely manner to contact the owner of the vehicle and may release the vehicle to the owner if the owner is reasonably available, as long as the owner was not in the vehicle at the time of the stop and arrest and the owner has not received a prior release under this subsection or RCW 46.55.120(1)(a)(ii).

(4) Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

***Sec. 6. RCW 73.04.110 and 2004 c 223 s 6 and 2004 c 125 s 1 are each reenacted and amended to read as follows:**

Any person who is a veteran as defined in RCW 41.04.007 who submits to the department of licensing satisfactory proof of a service-connected disability rating from the veterans administration or the military service from which the veteran was discharged and:

- (1) Has lost the use of both hands or one foot;***
- (2) Was captured and incarcerated for more than twenty-nine days by an enemy of the United States during a period of war with the United States;***
- (3) Has become blind in both eyes as the result of military service; or***
- (4) Is rated by the veterans administration or the military service from which the veteran was discharged and is receiving service-connected compensation at the one hundred percent rate that is expected to exist for more than one year;***

is entitled to regular or special license plates issued by the department of licensing. The special license plates shall bear distinguishing marks, letters, or numerals indicating that the motor vehicle is owned by a ((disabled)) veteran with disabilities or former prisoner of war. This license shall be issued annually for one personal use vehicle without payment of any license fees or excise tax thereon. Whenever any person who has been issued license plates under the provisions of this section applies to the department for transfer of the plates to a subsequently acquired motor vehicle, a transfer fee of ten dollars shall be charged in addition to all other appropriate fees. The

department may periodically verify the one hundred percent rate as provided in subsection (4) of this section.

Any person who has been issued free motor vehicle license plates under this section prior to July 1, 1983, shall continue to be eligible for the annual free license plates.

For the purposes of this section, "blind" means the definition of "blind" used by the state of Washington in determining eligibility for financial assistance to the blind under Title 74 RCW.

Any unauthorized use of a special plate is a gross misdemeanor.

*Sec. 6 was vetoed. See message at end of chapter.

Passed by the House April 18, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 11, 2005, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 11, 2005.

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

"I am returning, without my approval as to Section 6, Substitute House Bill No. 1711 entitled:

"AN ACT Relating to parking places for persons with disabilities."

Statutes relating to persons with disabilities are updated to use respectful language and consistency. The term "veteran with disability" in this bill is not consistent with the term "disabled veteran" used in federal law. Therefore, in order to avoid any unintended negative consequences, I am vetoing Section 6 of Substitute House Bill No. 1711.

For these reasons, I have vetoed Section 6 of Substitute House Bill No. 1711.

With the exception of Section 6, Substitute House Bill No. 1711 is approved."

CHAPTER 391

[Senate Bill 5707]

WOMEN'S HISTORY CONSORTIUM

AN ACT Relating to creating a women's history consortium; adding new sections to chapter 27.34 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that Washington state is widely recognized as being a steady leader in advancing rights and opportunities for women in all spheres of life. The legislature declares its intent to initiate the establishment of a Washington women's history consortium. This will improve the availability of historical information about the many actions taken by Washingtonians which have resulted in such notable and influential achievements for women and girls, for use by citizens, educators, researchers, and historians.

NEW SECTION. Sec. 2. (1) A women's history consortium is created with the Washington state historical society as the managing agency. To ensure geographic, demographic, and subject matter diversity, the consortium shall be managed by a board of advisors representing a range of perspectives, including private citizens, business, labor, historical societies, colleges and universities,

educators, tribes, and public officials. Appointment of the board of advisors must be completed by September 30, 2005.

(2) The consortium is attached to the Washington state historical society as the managing agency. Accordingly, the agency shall:

(a) Direct and supervise the budgeting, recordkeeping, recording, and related administrative and clerical functions of the consortium;

(b) Include the consortium's budgetary requests in the society's departmental budget;

(c) Collect all nonappropriated revenues for the consortium and deposit them in the proper fund or account;

(d) Provide staff support for the consortium;

(e) Print and disseminate for the consortium any required notices, rules, or orders adopted by the consortium; and

(f) Allocate or otherwise provide office space for the consortium as may be necessary.

NEW SECTION. Sec. 3. The board of advisors shall consist of fifteen members. The governor shall appoint eleven members to the board of advisors. Two members of the senate, one each representing the two largest caucuses of the senate, shall be appointed by the president of the senate, and two members of the house of representatives, one each representing the two largest caucuses of the house of representatives shall be appointed by the speaker of the house of representatives.

NEW SECTION. Sec. 4. Key responsibilities of the board of advisors include:

(1) Organizational and fiscal planning, management, and oversight;

(2) Adopting criteria and procedures for consortium membership and member responsibilities;

(3) Identifying short-term and long-term priorities of the consortium, with special emphasis on short-term priorities relating to preserving historical information from the last several decades before it is lost;

(4) Appointing special committees and task forces including people from consortium members and nonmembers to assist with the consortium's tasks; and

(5) Developing recommendations for statewide commemoration of the centennial of the adoption in 1910 of the fifth amendment to the Washington state Constitution, guaranteeing women's suffrage.

NEW SECTION. Sec. 5. Within available resources, the consortium responsibilities include:

(1) Compiling a comprehensive index of existing historically relevant materials and making it available in electronic and print form;

(2) Identifying topics, historical periods, materials, or activities not well represented in publicly accessible collections and developing strategies for making them publicly available, including topics related to motherhood and the accomplishments of mothers in Washington;

(3) Encouraging collection and preservation of materials important to understanding Washington women's history, with special emphasis on the last several decades;

(4) Referring potential donors of historical materials to appropriate museums, archives, libraries, and other organizations throughout the state;

(5) Developing protocols for protection of donations, loans, leases, and purchases of historically relevant materials;

(6) Encouraging exhibit development and sharing among member organizations and others;

(7) Encouraging public access and educational institution access to women's history information, materials, and exhibits;

(8) Seeking private donations to assist with consortium work;

(9) Developing a concept for a grant program;

(10) Developing a volunteer program; and

(11) Encouraging development of curriculum materials.

NEW SECTION. Sec. 6. The consortium board of advisors shall provide a report to the appropriate committees of the legislature by December 1, 2006, addressing the following:

(1) Progress on activities identified in sections 4 and 5 of this act; and

(2) Consortium needs and plans for the future.

NEW SECTION. Sec. 7. The consortium shall provide a report to the governor and the legislature by September 1, 2006, regarding recommendations for commemorating the 2010 centennial of the women's suffrage amendment to the state Constitution.

NEW SECTION. Sec. 8. Sections 2 through 6 of this act are each added to chapter 27.34 RCW.

Passed by the Senate April 16, 2005.

Passed by the House April 6, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 392

[Substitute Senate Bill 5145]

BOATING SAFETY EDUCATION

AN ACT Relating to a boating safety education program; amending RCW 79A.60.010; adding new sections to chapter 79A.60 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to establish a boating safety education program that contributes to the reduction of accidents and increases the enjoyment of boating by all operators of all recreational vessels on the waters of this state. Based on the 2003 report to the legislature titled "Recreational Boating Safety in Washington, A Report on Methods to Achieve Safer Boating Practices," the legislature recognizes that boating accidents also occur in nonmotorized vessels in this state, but, at this time there is no national educational standard for nonmotorized vessels. Therefore, the commission is hereby authorized and directed to work with agencies and organizations representing nonmotorized vessel activities and individuals operating nonmotorized vessels to decrease accidents of operators in these vessels. It is also the intent of the legislature to encourage boating safety education programs that use volunteer and private sector efforts to enhance boating safety and education for operators of nonmotorized vessels to work

closely with the state parks and recreation commission in its efforts to reduce all boating accidents in this state.

Sec. 2. RCW 79A.60.010 and 2003 c 39 s 45 are each amended to read as follows:

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

(1) "Accredited course" means a mandatory course of instruction on boating safety education that has been approved by the commission.

(2) "Boat wastes" includes, but is not limited to, sewage, garbage, marine debris, plastics, contaminated bilge water, cleaning solvents, paint scrapings, or discarded petroleum products associated with the use of vessels.

~~((2))~~ (3) "Boater" means any person on a vessel on waters of the state of Washington.

~~((3))~~ (4) "Boater education card" means a card issued to a person who has successfully completed a boating safety education test and has paid the registration fee for a serial number record to be maintained in the commission's data base.

(5) "Boating educator" means a person providing an accredited course.

(6) "Carrying passengers for hire" means carrying passengers in a vessel on waters of the state for valuable consideration, whether given directly or indirectly or received by the owner, agent, operator, or other person having an interest in the vessel. This shall not include trips where expenses for food, transportation, or incidentals are shared by participants on an even basis. Anyone receiving compensation for skills or money for amortization of equipment and carrying passengers shall be considered to be carrying passengers for hire on waters of the state.

~~((4))~~ (7) "Certificate of accomplishment" means a form of certificate approved by the commission and issued by a boating educator to a person who has successfully completed an accredited course.

(8) "Commission" means the state parks and recreation commission.

~~((5))~~ (9) "Darkness" means that period between sunset and sunrise.

~~((6))~~ (10) "Environmentally sensitive area" means a restricted body of water where discharge of untreated sewage from boats is especially detrimental because of limited flushing, shallow water, commercial or recreational shellfish, swimming areas, diversity of species, the absence of other pollution sources, or other characteristics.

~~((7))~~ (11) "Guide" means any individual, including but not limited to subcontractors and independent contractors, engaged for compensation or other consideration by a whitewater river outfitter for the purpose of operating vessels. A person licensed under RCW 77.65.480 or 77.65.440 and acting as a fishing guide is not considered a guide for the purposes of this chapter.

~~((8))~~ (12) "Marina" means a facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

~~((9))~~ (13) "Motor driven boats and vessels" means all boats and vessels which are self propelled.

~~((10))~~ (14) "Motor vessel safety operating and equipment checklist" means a printed list of the safety requirements for a vessel with a motor installed or attached to the vessel being rented, chartered, or leased and meeting minimum

requirements adopted by the commission in accordance with section 3 of this act.

~~((14))~~ (15) "Muffler" or "muffler system" means a sound suppression device or system, including an underwater exhaust system, designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.

~~((14))~~ (16) "Operate" means to steer, direct, or otherwise have physical control of a vessel that is underway.

~~((12))~~ (17) "Operator" means an individual who steers, directs, or otherwise has physical control of a vessel that is underway or exercises actual authority to control the person at the helm.

~~((13))~~ (18) "Observer" means the individual riding in a vessel who is responsible for observing a water skier at all times.

~~((14))~~ (19) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

~~((15))~~ (20) "Person" means any individual, sole proprietorship, partnership, corporation, nonprofit corporation or organization, limited liability company, firm, association, or other legal entity located within or outside this state.

~~((16))~~ (21) "Personal flotation device" means a buoyancy device, life preserver, buoyant vest, ring buoy, or buoy cushion that is designed to float a person in the water and that is approved by the commission.

~~((17))~~ (22) "Personal watercraft" means a vessel of less than sixteen feet that uses a motor powering a water jet pump, as its primary source of motive power and that is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

~~((18))~~ (23) "Polluted area" means a body of water used by boaters that is contaminated by boat wastes at unacceptable levels, based on applicable water quality and shellfish standards.

~~((19))~~ (24) "Public entities" means all elected or appointed bodies, including tribal governments, responsible for collecting and spending public funds.

~~((20))~~ (25) "Reckless" or "recklessly" means acting carelessly and heedlessly in a willful and wanton disregard of the rights, safety, or property of another.

~~((21))~~ (26) "Rental motor vessel" means a motor vessel that is legally owned by a person that is registered as a rental and leasing agency for recreational motor vessels, and for which there is a written and signed rental, charter, or lease agreement between the owner, or owner's agent, of the vessel and the operator of the vessel.

(27) "Sewage pumpout or dump unit" means:

(a) A receiving chamber or tank designed to receive vessel sewage from a "porta-potty" or a portable container; and

(b) A stationary or portable mechanical device on land, a dock, pier, float, barge, vessel, or other location convenient to boaters, designed to remove sewage waste from holding tanks on vessels.

~~((22))~~ (28) "Underway" means that a vessel is not at anchor, or made fast to the shore, or aground.

~~((23))~~ (29) "Vessel" includes every description of watercraft on the water, other than a seaplane, used or capable of being used as a means of transportation on the water. However, it does not include inner tubes, air mattresses, sailboards, and small rafts or flotation devices or toys customarily used by swimmers.

~~((24))~~ (30) "Water skiing" means the physical act of being towed behind a vessel on, but not limited to, any skis, aquaplane, kneeboard, tube, or any other similar device.

~~((25))~~ (31) "Waters of the state" means any waters within the territorial limits of Washington state.

~~((26))~~ (32) "Whitewater river outfitter" means any person who is advertising to carry or carries passengers for hire on any whitewater river of the state, but does not include any person whose only service on a given trip is providing instruction in canoeing or kayaking skills.

~~((27))~~ (33) "Whitewater rivers of the state" means those rivers and streams, or parts thereof, within the boundaries of the state as listed in RCW 79A.60.470 or as designated by the commission under RCW 79A.60.495.

NEW SECTION. Sec. 3. A new section is added to chapter 79A.60 RCW to read as follows:

(1) The commission shall establish and implement by rule a program to provide required boating safety education. The boating safety education program shall include training on preventing the spread of aquatic invasive species. The program shall be phased in so that all boaters not exempted under section 4(3) of this act are required to obtain a boater education card by January 1, 2016. To obtain a boater education card, a boater shall provide a certificate of accomplishment issued by a boating educator for taking and passing an accredited boating safety education course, or pass an equivalency exam, or provide proof of completion of a course that meets the standard adopted by the commission.

(2) As part of the boating safety education program, the commission shall:

(a) Establish a program to be phased over eleven years starting July 1, 2005, with full implementation by January 1, 2016. The period July 1, 2005, through December 31, 2007, will be program development, boater notification of the new requirements for mandatory education, and processing cards to be issued to individuals having taken an accredited course prior to January 1, 2008. The schedule for phase-in of the mandatory education requirement by age group is as follows:

- January 1, 2008 - All boat operators twenty years old and younger;
- January 1, 2009 - All boat operators twenty-five years old and younger;
- January 1, 2010 - All boat operators thirty years old and younger;
- January 1, 2011 - All boat operators thirty-five years old and younger;
- January 1, 2012 - All boat operators forty years old and younger;
- January 1, 2013 - All boat operators fifty years old and younger;
- January 1, 2014 - All boat operators sixty years old and younger;
- January 1, 2015 - All boat operators seventy years old and younger;
- January 1, 2016 - All boat operators;

(b) Establish a minimum standard of boating safety education accomplishment. The standard must be consistent with the applicable standard established by the national association of state boating law administrators;

(c) Adopt minimum standards for boating safety education course of instruction and examination that ensures compliance with the national association of state boating law administrators minimum standards;

(d) Approve and provide accreditation to boating safety education courses operated by volunteers, or commercial or nonprofit organizations, including, but not limited to, courses given by the United States coast guard auxiliary and the United States power squadrons;

(e) Develop an equivalency examination that may be taken as an alternative to the boating safety education course;

(f) Establish a fee of ten dollars for the boater education card to fund all commission activities related to the boating safety education program created by this act, including the initial costs of developing the program. Any surplus funds resulting from the fees received shall be distributed by the commission as grants to local marine law enforcement programs approved by the commission as provided in RCW 88.02.040;

(g) Establish a fee for the replacement of the boater education card that covers the cost of replacement;

(h) Consider and evaluate public agency and commercial opportunities to assist in program administration with the intent to keep administrative costs to a minimum;

(i) Approve and provide accreditation to boating safety education courses offered online; and

(j) Provide a report to the legislature by January 1, 2008, on its progress of implementation of the mandatory education program.

NEW SECTION. Sec. 4. A new section is added to chapter 79A.60 RCW to read as follows:

(1) No person shall operate or permit the operation of motor driven boats and vessels with a mechanical power of fifteen horsepower or greater unless the person:

(a) Is at least twelve years of age, except that an operator of a personal watercraft shall comply with the age requirements under RCW 79A.60.190; and

(b)(i) Has in his or her possession a boater education card, unless exempted under subsection (3) of this section; or

(ii) Is accompanied by and is under the direct supervision of a person sixteen years of age or older who is in possession of a boater education card, or who is not yet required to possess the card as provided in the program phase in section 3(2)(a) of this act.

(2) Any person who can demonstrate they have successfully completed, prior to the effective date of this act, a boating safety education course substantially equivalent to the standards adopted by the commission shall be eligible for a boater education card upon application to the commission and payment of the fee, without having to take a course or equivalency exam as provided in section 3(1) of this act. Successful completion of a boating safety education course could include an original or copy of an original certificate issued by the commission, the United States coast guard auxiliary, or the United States power squadrons, or official certification by these organizations that the

individual successfully completed a course substantially equivalent to the standards adopted by the commission.

(3) The following persons are not required to carry a boater education card:

(a) The operator of a vessel engaged in a lawful commercial fishery operation as licensed by the department of fish and wildlife under Title 77 RCW. However, the person when operating a vessel for recreational purposes must carry either a valid commercial fishing license issued by the department of fish and wildlife or a boater education card;

(b) Any person who possesses a valid marine operator license issued by the United States coast guard when operating a vessel authorized by such coast guard license. However, the person when operating a vessel for recreational purposes must carry either a valid marine operator license issued by the United States coast guard or a boater education card;

(c) Any person who is legally engaged in the operation of a vessel that is exempt from vessel registration requirements under chapter 88.02 RCW and applicable rules and is used for purposes of law enforcement or official government work. However, the person when operating a vessel for recreational purposes must carry a boater education card;

(d) Any person at least twelve years old renting, chartering, or leasing a motor driven boat or vessel with an engine power of fifteen horsepower or greater who completes a commission-approved motor vessel safety operating and equipment checklist each time before operating the motor driven boat or vessel, except that an operator of a personal watercraft shall comply with the age requirements under RCW 79A.60.190;

(e) Any person who is not a resident of Washington state and who does not operate a motor driven boat or vessel with an engine power of fifteen horsepower or greater in waters of the state for more than sixty consecutive days;

(f) Any person who is not a resident of Washington state and who holds a current out-of-state or out-of-country certificate or card that is equivalent to the rules adopted by the commission;

(g) Any person who has purchased the boat or vessel within the last sixty days, and has a bill of sale in his or her possession to document the date of purchase;

(h) Any person, including those less than twelve years of age, who is involved in practicing for, or engaging in, a permitted racing event where a valid document has been issued by the appropriate local, state, or federal government agency for the event, and is available for inspection on-site during the racing event;

(i) Any person who is not yet required to have a boater education card under the phased schedule in section 3(2)(a) of this act; and

(j) Any person born before January 1, 1955.

(4) Except as provided in subsection (3)(a) through (i) of this section, a boater must carry a boater education card while operating a vessel and is required to present the boater education card, or alternative license as provided in subsection (3)(a) and (b) of this section, to a law enforcement officer upon request.

(5) Failure to possess a boater education card required by this section is an infraction under chapter 7.84 RCW. The penalty shall be waived if the boater

provides proof to the court within sixty days that he or she has received a boater education card.

(6) No person shall permit the rental, charter, or lease of a motor driven boat or vessel with an engine power of fifteen horsepower or greater to a person without first reviewing with that person, and all other persons who may be permitted by the person to operate the vessel, all the information contained in the motor vessel safety operating and equipment checklist.

NEW SECTION. **Sec. 5.** A new section is added to chapter 79A.60 RCW to read as follows:

The boating safety education certification account is created in the custody of the state treasurer. All receipts from fees collected for the issuance of a boater education card shall be deposited in the account and shall be used only for the administration of sections 3 and 4 of this act. Only the state parks and recreation commission 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.

Passed by the Senate April 16, 2005.

Passed by the House April 12, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 393

[Substitute Senate Bill 5664]

TEACHER TRAINING—SALARY SCHEDULE—COURSES ON STUDENT LEARNING DIFFERENCES

AN ACT Relating to improving teachers' skills in teaching children with learning differences; and amending RCW 28A.415.023.

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

Sec. 1. RCW 28A.415.023 and 1997 c 90 s 1 are each amended to read as follows:

(1) Credits earned by certificated instructional staff after September 1, 1995, shall be eligible for application to the salary schedule developed by the legislative evaluation and accountability program committee only if the course content:

(a) Is consistent with a school-based plan for mastery of student learning goals as referenced in RCW (~~28A.320.205~~) 28A.655.110, the annual school performance report, for the school in which the individual is assigned;

(b) Pertains to the individual's current assignment or expected assignment for the subsequent school year;

(c) Is necessary to obtain an endorsement as prescribed by the state board of education;

(d) Is specifically required to obtain advanced levels of certification; (~~or~~)

(e) Is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certified instructional staff; or

(f) Addresses research-based assessment and instructional strategies for students with dyslexia, dysgraphia, and language disabilities when addressing

learning goal one under RCW 28A.150.210, as applicable and appropriate for individual certificated instructional staff.

(2) For the purpose of this section, "credits" mean college quarter hour credits and equivalent credits for approved in-service, approved continuing education, or approved internship hours computed in accordance with RCW 28A.415.020.

(3) The superintendent of public instruction shall adopt rules and standards consistent with the limits established by this section for certificated instructional staff.

Passed by the Senate April 16, 2005.

Passed by the House April 7, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 394

[Engrossed Substitute Senate Bill 5788]

RECYCLABLE MATERIALS—TRANSPORTERS

AN ACT Relating to ensuring the lawful transport and handling of recyclable materials; amending RCW 70.95.305; reenacting and amending RCW 70.95.020; adding new sections to chapter 70.95 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature to improve recycling, eliminate illegal disposal of recyclable materials, protect consumers from sham recycling, and to further the purposes of RCW 70.95.020 and the goal of consistency in jurisdictional treatment of the statewide solid waste management plan adopted by the department of ecology.

Sec. 2. RCW 70.95.020 and 1998 c 156 s 1 and 1998 c 90 s 1 are each reenacted and amended to read as follows:

The purpose of this chapter is to establish a comprehensive statewide program for solid waste handling, and solid waste recovery and/or recycling which will prevent land, air, and water pollution and conserve the natural, economic, and energy resources of this state. To this end it is the purpose of this chapter:

(1) To assign primary responsibility for adequate solid waste handling to local government, reserving to the state, however, those functions necessary to assure effective programs throughout the state;

(2) To provide for adequate planning for solid waste handling by local government;

(3) To provide for the adoption and enforcement of basic minimum performance standards for solid waste handling, including that all sites where recyclable materials are generated and transported from shall provide a separate container for solid waste;

(4) To encourage the development and operation of waste recycling facilities needed to accomplish the management priority of waste recycling, ~~((and))~~ to promote consistency in the requirements for such facilities throughout the state, and to ensure that recyclable materials diverted from the waste stream for recycling are routed to facilities in which recycling occurs;

(5) To provide technical and financial assistance to local governments in the planning, development, and conduct of solid waste handling programs;

(6) To encourage storage, proper disposal, and recycling of discarded vehicle tires and to stimulate private recycling programs throughout the state; and

(7) To encourage the development and operation of waste recycling facilities and activities needed to accomplish the management priority of waste recycling and to promote consistency in the permitting requirements for such facilities and activities throughout the state.

It is the intent of the legislature that local governments be encouraged to use the expertise of private industry and to contract with private industry to the fullest extent possible to carry out solid waste recovery and/or recycling programs.

Sec. 3. RCW 70.95.305 and 1998 c 156 s 5 are each amended to read as follows:

(1) Notwithstanding any other provision of this chapter, the department may by rule exempt from the requirements to obtain a solid waste handling permit any category of solid waste handling facility that it determines to:

(a) Present little or no environmental risk; and

(b) Meet the environmental protection and performance requirements required for other similar solid waste facilities.

(2) This section does not apply to any facility or category of facilities that:

(a) Receives municipal solid waste destined for final disposal, including but not limited to transfer stations, landfills, and incinerators;

(b) Applies putrescible solid waste on land for final disposal purposes;

(c) Handles mixed solid wastes that have not been processed to segregate solid waste materials destined for disposal from other solid waste materials destined for a beneficial use or recycling;

(d) Receives or processes organic waste materials into compost in volumes that generally far exceed those handled by municipal park departments, master gardening programs, and households; or

(e) Receives solid waste destined for recycling or reuse, the operation of which is determined by the department to present risks to human health and the environment.

(3) Rules adopted under this section shall contain such terms and conditions as the department deems necessary to ensure compliance with applicable statutes and rules. If a facility does not operate in compliance with the terms and conditions established for an exemption under subsection (1) of this section, the facility is subject to the permitting requirements for solid waste handling under this chapter.

(4) 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.

NEW SECTION. Sec. 4. A new section is added to chapter 70.95 RCW to read as follows:

(1) For the purposes of this section and section 5 of this act, "transporter" means any person or entity that transports recyclable materials from commercial or industrial generators over the public highways of the state of Washington for compensation, and who are required to possess a permit to operate from the Washington utilities and transportation commission under chapter 81.80 RCW. "Transporter" includes commercial recycling operations of certificated solid waste collection companies as provided in chapter 81.77 RCW. "Transporter" does not include:

(a) Carriers of commercial recyclable materials, when such materials are owned or being bought or sold by the entity or person, and being carried in their own vehicle, when such activity is incidental to the conduct of an entity or person's primary business;

(b) Entities or persons hauling their own recyclables or hauling recyclables they generated or purchased and transported in their own vehicles;

(c) Nonprofit or charitable organizations collecting and transporting recyclable materials from a buyback center, drop box, or from a commercial or industrial generator of recyclable materials;

(d) City municipal solid waste departments or city solid waste contractors;

or

(e) Common carriers under chapter 81.80 RCW whose primary business is not the transportation of recyclable materials.

(2) All transporters shall register with the department prior to the transportation of recyclable materials. The department shall supply forms for registration.

(3) A transporter who transports recyclable materials within the state without a transporter registration required by this section is subject to a civil penalty in an amount up to one thousand dollars per violation.

NEW SECTION. Sec. 5. A new section is added to chapter 70.95 RCW to read as follows:

(1) A transporter may not deliver any recyclable materials for disposal to a transfer station or landfill.

(2) A transporter shall keep records of locations and quantities specifically identified in relation to a generator's name, service date, address, and invoice, documenting where recyclables have been sold, delivered for processing, or otherwise marketed. These records must be retained for two years from the date of collection, and must be made accessible for inspection by the department and the local health department.

(3) A transporter who violates the provisions of this section is subject to a civil penalty of up to one thousand dollars per violation.

NEW SECTION. Sec. 6. A new section is added to chapter 70.95 RCW to read as follows:

Any person damaged by a violation of sections 4 through 8 of this act may bring a civil action for such a violation by seeking either injunctive relief or damages, or both, in the superior court of the county in which the violation took place or in Thurston county. The prevailing party in such an action is entitled to reasonable costs and attorneys' fees, including those on appeal.

NEW SECTION. Sec. 7. A new section is added to chapter 70.95 RCW to read as follows:

(1) All facilities that recycle solid waste, except for those facilities with a current solid waste handling permit issued under RCW 70.95.170, must notify the department in writing within thirty days prior to operation, or ninety days from the effective date of this section for existing recycling operations, of the intent to conduct recycling in accordance with this section. Notification must be in writing, and include:

- (a) Contact information for the person conducting the recycling activity;
- (b) A general description of the recycling activity;
- (c) A description of the types of solid waste being recycled; and
- (d) A general explanation of the recycling processes and methods.

(2) Each facility that recycles solid waste, except those facilities with a current solid waste handling permit issued under RCW 70.95.170, shall prepare and submit an annual report to the department by April 1st on forms supplied by the department. The annual report must detail recycling activities during the previous calendar year and include the following information:

- (a) The name and address of the recycling operation;
- (b) The calendar year covered by the report;
- (c) The annual quantities and types of waste received, recycled, and disposed, in tons, for purposes of determining progress towards achieving the goals of waste reduction, waste recycling, and treatment in accordance with RCW 70.95.010(4); and

(d) Any additional information required by written notification of the department that is needed to determine progress towards achieving the goals of waste reduction, waste recycling, and treatment in accordance with RCW 70.95.010(4).

(3) Any facility, except for product take-back centers, that recycles solid waste materials within the state without first obtaining a solid waste handling permit under RCW 70.95.170 or completing a notification under this section is subject to a civil penalty of up to one thousand dollars per violation.

NEW SECTION. Sec. 8. A new section is added to chapter 70.95 RCW to read as follows:

(1) The department may adopt rules that establish financial assurance requirements for recycling facilities that do not already have financial assurance requirements under this chapter, or are not already specifically exempted from financial assurance requirements under this chapter. The financial assurance requirements must take into consideration the amounts and types of recyclable materials recycled at the facility, and the potential closure and postclosure costs associated with the recycling facility; which assurance may consist of posting of a surety bond in an amount sufficient to meet these requirements or other financial instrument, but in no case less than ten thousand dollars.

(2) A recycling facility is required to meet financial assurance requirements adopted by the department by rule, unless the facility is already required to provide financial assurance under other provisions of this chapter.

(3) Facilities that collect, recover, process, or otherwise recycle scrap metal, processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal are exempt from the requirements of this section.

NEW SECTION. Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate April 19, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 395

[Senate Bill 6033]

DUNGENESS CRAB POT BUOY TAG PROGRAMS

AN ACT Relating to a Washington coastal Dungeness crab pot buoy tag program; amending RCW 77.70.430 and 77.70.440; and adding a new section to chapter 77.70 RCW.

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

Sec. 1. RCW 77.70.430 and 2001 c 234 s 1 are each amended to read as follows:

(1) In order to administer a Puget Sound crab pot buoy tag program, the department may charge a fee to holders of a Dungeness crab—Puget Sound fishery license to reimburse the department for the production of Puget Sound crab pot buoy tags and the administration of a Puget Sound crab pot buoy tag program.

(2) In order to administer a Washington coastal Dungeness crab pot buoy tag program, the department may charge a fee to holders of a Dungeness crab—coastal or a Dungeness crab coastal class B fishery license to reimburse the department for the production of Washington coastal crab pot buoy tags and the administration of a Washington coastal crab pot buoy tag program.

(3) The department shall annually review the costs of crab pot buoy tag production under this section with the goal of minimizing the per tag production costs. Any savings in production costs shall be passed on to the fishers required to purchase crab pot buoy tags under this section in the form of a lower tag fee.

Sec. 2. RCW 77.70.440 and 2001 c 234 s 2 are each amended to read as follows:

The Puget Sound crab pot buoy tag account is created in the custody of the state treasurer. All revenues from fees from RCW 77.70.430(1) must be deposited into the account. Expenditures from this account may be used for the production of crab pot buoy tags and the administration of a Puget Sound crab pot buoy tag program. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW but no appropriation is required for expenditures.

NEW SECTION. Sec. 3. A new section is added to chapter 77.70 RCW to read as follows:

The Washington coastal crab pot buoy tag account is created in the custody of the state treasurer. All revenues from fees from RCW 77.70.430(2) must be deposited into the account. Expenditures from this account may be used for the production of crab pot buoy tags and the administration of a Washington coastal crab pot buoy tag program. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment

procedures under chapter 43.88 RCW but no appropriation is required for expenditures.

Passed by the Senate April 19, 2005.

Passed by the House April 7, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 396

[House Bill 1108]

RULES OF THE ROAD—PASSING PEDESTRIANS, BICYCLISTS

AN ACT Relating to limitations for vehicles passing pedestrians or bicyclists; amending RCW 46.61.110, 46.61.120, and 46.61.125; and adding a new section to chapter 46.61 RCW.

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

Sec. 1. RCW 46.61.110 and 1965 ex.s. c 155 s 17 are each amended to read as follows:

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

(1) The driver of a vehicle overtaking (~~(another vehicle)~~) other traffic proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken (~~(vehicle)~~) traffic.

(2) The driver of a vehicle approaching a pedestrian or bicycle that is on the roadway or on the right-hand shoulder or bicycle lane of the roadway shall pass to the left at a safe distance to clearly avoid coming into contact with the pedestrian or bicyclist, and shall not again drive to the right side of the roadway until safely clear of the overtaken pedestrian or bicyclist.

(3) Except when overtaking and passing on the right is permitted, (~~(the driver of an)~~) overtaken (~~(vehicle)~~) traffic shall give way to the right in favor of (~~(the)~~) an overtaking vehicle on audible signal and shall not increase (~~(the)~~) speed (~~(of his vehicle)~~) until completely passed by the overtaking vehicle.

Sec. 2. RCW 46.61.120 and 1965 ex.s. c 155 s 19 are each amended to read as follows:

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing (~~(another vehicle)~~) other traffic proceeding in the same direction unless authorized by the provisions of RCW 46.61.100 through 46.61.160 and unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any (~~(vehicle)~~) traffic approaching from the opposite direction or any (~~(vehicle)~~) traffic overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet of any approaching (~~(vehicle)~~) traffic.

Sec. 3. RCW 46.61.125 and 1972 ex.s. c 33 s 2 are each amended to read as follows:

(1) No vehicle shall be driven on the left side of the roadway under the following conditions:

(a) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event (~~(another vehicle)~~) other traffic might approach from the opposite direction;

(b) When approaching within one hundred feet of or traversing any intersection or railroad grade crossing;

(c) When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct or tunnel;

(d) When a bicycle or pedestrian is within view of the driver and is approaching from the opposite direction, or is present, in the roadway, shoulder, or bicycle lane within a distance unsafe to the bicyclist or pedestrian due to the width or condition of the roadway, shoulder, or bicycle lane.

(2) The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in RCW 46.61.100(1)(b), nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

NEW SECTION. Sec. 4. A new section is added to chapter 46.61 RCW to read as follows:

Nothing in RCW 46.61.110, 46.61.120, or 46.61.125 relieves pedestrians and bicyclists of their legal duties while traveling on public highways.

Passed by the House April 18, 2005.

Passed by the Senate April 5, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 397

[House Bill 1110]

PESTICIDE APPLICATORS—RE-CERTIFICATION STANDARDS

AN ACT Relating to recertification standards for private applicators of pesticides; and amending RCW 17.21.128.

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

Sec. 1. RCW 17.21.128 and 2004 c 100 s 3 are each amended to read as follows:

(1) The director may renew any certification or license issued under authority of this chapter subject to the recertification standards identified in subsection (2) of this section or an examination requiring new knowledge that may be required to apply pesticides.

(2) Except as provided in subsection (3) of this section, all individuals licensed under this chapter shall meet the recertification standards identified in (a) or (b) of this subsection, every five years, in order to qualify for continuing licensure.

(a) Licensed pesticide applicators may qualify for continued licensure through accumulation of recertification credits.

(i) Private applicators shall accumulate a minimum of twenty department-approved credits every five years with no more than (~~(eight)~~) ten credits allowed per year;

(ii) Limited private applicators shall accumulate a minimum of eight department-approved credits every five years. All credits must be applicable to the control of weeds with at least one-half of the credits directly related to weed control and the remaining credits in topic areas indirectly related to weed control, such as the safe and legal use of pesticides;

(iii) Rancher private applicators shall accumulate a minimum of twelve department-approved credits every five years;

(iv) All other license types established under this chapter shall accumulate a minimum of forty department-approved credits every five years with no more than fifteen credits allowed per year.

(b) Certified pesticide applicators may qualify for continued licensure through meeting the examination requirements necessary to become licensed in those areas in which the licensee operates.

(3) At the termination of a licensee's five-year recertification period, the director may waive the requirements identified in subsection (2) of this section if the licensee can demonstrate that he or she is meeting comparable recertification standards through another state or jurisdiction or through a federal environmental protection agency approved government agency plan.

Passed by the House April 18, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 398

[House Bill 1124]

HIGHWAYS—SIGNS, BANNERS

AN ACT Relating to authorizing the use of signs, banners, or decorations over highways under limited circumstances; and amending RCW 47.36.030 and 47.42.020.

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

Sec. 1. RCW 47.36.030 and 2003 c 198 s 3 are each amended to read as follows:

(1) The secretary of transportation shall have the power and it shall be its duty to adopt and designate a uniform state standard for the manufacture, display, erection, and location of all signs, signals, signboards, guideposts, and other traffic devices erected or to be erected upon the state highways of the state of Washington for the purpose of furnishing information to persons traveling upon such state highways regarding traffic regulations, directions, distances, points of danger, and conditions requiring caution, and for the purpose of imposing restrictions upon persons operating vehicles thereon. Such signs shall conform as nearly as practicable to the manual of specifications for the manufacture, display, and erection of uniform traffic control devices for streets and highways and all amendments, corrections, and additions thereto.

(2) The department of transportation shall prepare plans and specifications of the uniform state standard of traffic devices so adopted and designated, showing the materials, colors, and designs thereof, and shall upon the issuance of any such plans and specifications or revisions thereof and upon request, furnish to the boards of county commissioners and the governing body of any

incorporated city or town, a copy thereof. Signs, signals, signboards, guideposts, and other traffic devices erected on county roads shall conform in all respects to the specifications of color, design, and location approved by the secretary. Traffic devices hereafter erected within incorporated cities and towns shall conform to such uniform state standard of traffic devices so far as is practicable. The uniform system must allow local transit authority bus shelters located within the right of way of the state highway system to display and maintain commercial advertisements subject to applicable federal regulations, if any.

(3) The uniform system adopted by the secretary under this section may allow signs, banners, or decorations over a highway that:

(a) Are in unincorporated areas;

(b) Are at least twenty vertical feet above a highway; and

(c) Do not interfere with or obstruct the view of any traffic control device.

The department shall adopt rules regulating signs, banners, or decorations installed under this subsection (3).

Sec. 2. RCW 47.42.020 and 1993 c 430 s 10 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Department" means the Washington state department of transportation.

(2) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(3) "Interstate system" means any state highway which is or does become part of the national system of interstate and defense highways as described in section 103(d) of title 23, United States Code.

(4) "Maintain" means to allow to exist.

(5) "Person" means this state or any public or private corporation, firm, partnership, association, as well as any individual or individuals.

(6) "Primary system" means any state highway which is or does become part of the federal-aid primary system as described in section 103(b) of title 23, United States Code.

(7) "Scenic system" means (a) any state highway within any public park, federal forest area, public beach, public recreation area, or national monument, (b) any state highway or portion thereof outside the boundaries of any incorporated city or town designated by the legislature as a part of the scenic system, or (c) any state highway or portion thereof outside the boundaries of any incorporated city or town designated by the legislature as a part of the scenic and recreational highway system except for the sections of highways specifically excluded in RCW 47.42.025 or located within areas zoned by the governing county for predominantly commercial and industrial uses, and having development visible to the highway, as determined by the department.

(8) "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing that is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the interstate system or other state highway. "Sign" does not include a display authorized under RCW 47.36.030(3) promoting a local agency sponsored event that does not include advertising.

(9) "Commercial and industrial areas" means any area zoned commercial or industrial by a county or municipal code, or if unzoned or zoned for general uses by a county or municipal code, that area occupied by three or more separate and distinct commercial or industrial activities, or any combination thereof, within a space of five hundred feet and the area within five hundred feet of such activities on both sides of the highway. The area shall be measured from the outer edges of the regularly used buildings, parking lots, or storage or processing areas of the commercial or industrial activity and not from the property lines of the parcels upon which the activities are located. Measurements shall be along or parallel to the edge of the main traveled way of the highway. The following shall not be considered commercial or industrial activities:

- (a) Agricultural, forestry, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;
- (b) Transient or temporary activities;
- (c) Railroad tracks and minor sidings;
- (d) Signs;
- (e) Activities more than six hundred and sixty feet from the nearest edge of the right of way;
- (f) Activities conducted in a building principally used as a residence.

If any commercial or industrial activity that has been used in defining or delineating an unzoned area ceases to operate for a period of six continuous months, any signs located within the former unzoned area become nonconforming and shall not be maintained by any person.

(10) "Roadside area information panel or display" means a panel or display located so as not to be readable from the main traveled way, erected in a safety rest area, scenic overlook, or similar roadside area, for providing motorists with information in the specific interest of the traveling public.

(11) "Temporary agricultural directional sign" means a sign on private property adjacent to state highway right of way to provide directional information to places of business offering for sale seasonal agricultural products on the property where the sale is taking place.

Passed by the House April 18, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 399

[Substitute House Bill 1393]

MOBILE HOMES—SAFETY STANDARDS—INSPECTIONS—NOTICE

AN ACT Relating to movement of mobile homes; and amending RCW 46.44.170, 43.22.340, 43.22.432, 46.12.290, and 59.21.021.

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

Sec. 1. RCW 46.44.170 and 2004 c 79 s 4 are each amended to read as follows:

(1) Any person moving a mobile home as defined in RCW 46.04.302 or a park model trailer as defined in RCW 46.04.622 upon public highways of the state must obtain:

(a) A special permit from the department of transportation and local authorities pursuant to RCW 46.44.090 and 46.44.093 and shall pay the proper fee as prescribed by RCW 46.44.0941 and 46.44.096; and

(b) For mobile homes constructed before June 15, 1976, and already situated in the state: (i) A certification from the department of labor and industries that the mobile home was inspected for fire safety; or (ii) an affidavit in the form prescribed by the department of community, trade, and economic development signed by the owner at the county treasurer's office at the time of the application for the movement permit stating that the mobile home is being moved by the owner for his or her continued occupation or use; or (iii) a copy of the certificate of ownership or title together with an affidavit signed under penalty of perjury by the certified owner stating that the mobile home is being transferred to a wrecking yard or similar facility for disposal. In addition, the destroyed mobile home must be removed from the assessment rolls of the county and any outstanding taxes on the destroyed mobile home must be removed by the county treasurer.

(2) A special permit issued as provided in subsection (1) of this section for the movement of any mobile home or a park model trailer that is assessed for purposes of property taxes shall not be valid until the county treasurer of the county in which the mobile home or park model trailer is located shall endorse or attach his or her certificate that all property taxes which are a lien or which are delinquent, or both, upon the mobile home or park model trailer being moved have been satisfied. Further, any mobile home or park model trailer required to have a special movement permit under this section shall display an easily recognizable decal. However, endorsement or certification by the county treasurer and the display of the decal is not required:

(a) When a mobile home or park model trailer is to enter the state or is being moved from a manufacturer or distributor to a retail sales outlet or directly to the purchaser's designated location or between retail and sales outlets;

(b) When a signed affidavit of destruction is filed with the county assessor and the mobile home or park model trailer is being moved to a disposal site by a landlord as defined in RCW 59.20.030 after (i) the mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (ii) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the mobile home or park model trailer. The mobile home or park model trailer will be removed from the tax rolls and, upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer will be removed by the county treasurer; or

(c) When a signed affidavit of destruction is filed with the county assessor by any mobile home or park model trailer owner or any property owner with an abandoned mobile home or park model trailer, the same shall be removed from the tax rolls and upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer shall be removed by the county treasurer.

(3) If the landlord of a mobile home park takes ownership of a mobile home or park model trailer with the intent to resell or rent the same under RCW 59.20.030 after (a) the mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (b) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to

the mobile home or park model trailer, the outstanding taxes become the responsibility of the landlord.

(4) It is the responsibility of the owner of the mobile home or park model trailer subject to property taxes or the agent to obtain the endorsement and decal from the county treasurer before a mobile home or park model trailer is moved.

(5) This section does not prohibit the issuance of vehicle license plates for a mobile home or park model trailer subject to property taxes, but plates shall not be issued unless the mobile home or park model trailer subject to property taxes for which plates are sought has been listed for property tax purposes in the county in which it is principally located and the appropriate fee for the license has been paid.

(6) The department of transportation, the department of labor and industries, and local authorities are authorized to adopt reasonable rules for implementing the provisions of this section. The department of transportation shall adopt rules specifying the design, reflective characteristics, annual coloration, and for the uniform implementation of the decal required by this section. By January 1, 2006, the department of labor and industries shall also adopt procedures for notifying destination local jurisdictions concerning the arrival of mobile homes that failed safety inspections.

Sec. 2. RCW 43.22.340 and 2003 c 53 s 228 are each amended to read as follows:

(1) The director shall adopt specific rules for conversion vending units and medical units. The rules for conversion vending units and medical units shall be established to protect the occupants from fire; to address other life safety issues; and to ensure that the design and construction are capable of supporting any concentrated load of five hundred pounds or more. Also, the director shall adopt specific rules concerning safety standards as necessary to implement subsection (3) of this section by January 1, 2006.

(2) The director of labor and industries shall adopt rules governing safety of body and frame design, and the installation of plumbing, heating, and electrical equipment in mobile homes, commercial coaches, recreational vehicles, and/or park trailers: PROVIDED, That the director shall not prescribe or enforce rules governing the body and frame design of recreational vehicles and park trailers until after the American National Standards Institute shall have published standards and specifications upon this subject. The rules shall be reasonably consistent with recognized and accepted principles of safety for body and frame design and plumbing, heating, and electrical installations, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe body and frame design, construction, plumbing, heating, electrical, and other equipment and shall correlate with and, so far as practicable, conform to the then current standards and specifications of the American National Standards Institute standards A119.1 for mobile homes and commercial coaches, A119.2 for recreational vehicles, and A119.5 for park trailers.

(3) Except as provided in RCW 43.22.436, it shall be unlawful for any person to lease, sell or offer for sale, within this state, any mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers manufactured after January 1, 1968, containing plumbing, heating, electrical, or other equipment, and after July 1, 1970, body

and frame design or construction, unless such equipment, design, or construction meets the requirements of the rules provided for in this section.

(4) Any person violating this section is guilty of a misdemeanor. Each day upon which a violation occurs shall constitute a separate violation.

Sec. 3. RCW 43.22.432 and 2002 c 268 s 7 are each amended to read as follows:

(1) The department may adopt all standards and regulations adopted by the secretary under the national manufactured home construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) for manufactured home construction and safety standards. If any deletions or amendments to the federal standards or regulations are thereafter made and notice thereof is given to the department, the standards or regulations shall be considered automatically adopted by the state under this chapter after the expiration of thirty days from publication in the federal register of a final order describing the deletions or amendments unless within that thirty day period the department objects to the deletion or amendment. In case of objection, the department shall proceed under the rule making procedure of chapter 34.05 RCW.

(2) The department shall adopt rules with respect to manufactured homes that require the prior written approval of the department before changes or alterations may be made to a manufactured home that differ from the construction standards provided for in this section.

(3) For purposes of implementing this section, by January 1, 2006, the department shall adopt requirements for manufactured homes built before June 15, 1976.

(4) Except as provided in RCW 43.22.436, it is unlawful for any person to lease, sell, or offer for sale, within this state, a manufactured home unless the home meets the requirements of the rules provided for in this section.

Sec. 4. RCW 46.12.290 and 1993 c 154 s 2 are each amended to read as follows:

(1) The provisions of chapter 46.12 RCW insofar as they are not inconsistent with the provisions of chapter 231, Laws of 1971 ex. sess. or chapter 65.20 RCW apply to mobile or manufactured homes: PROVIDED, That RCW 46.12.080 and 46.12.250 through 46.12.270 shall not apply to mobile or manufactured homes.

(2) In order to transfer ownership of a mobile home, all registered owners of record must sign the title certificate releasing their ownership. If the mobile home was manufactured before June 15, 1976, the registered owner must sign an affidavit in the form prescribed by the department of licensing that notice was provided to the purchaser of the mobile home that failure of the mobile home to meet federal housing and urban development standards or failure of the mobile home to meet a fire and safety inspection by the department of labor and industries may result in denial by a local jurisdiction of a permit to site the mobile home.

(3) The director of licensing shall have the power to adopt such rules as necessary to implement the provisions of this chapter relating to mobile homes.

Sec. 5. RCW 59.21.021 and 2002 c 257 s 2 are each amended to read as follows:

(1) If a mobile home park is closed or converted to another use after December 31, 1995, eligible tenants shall be entitled to assistance on a first-come, first-serve basis. The department shall give priority for distribution of relocation assistance to tenants residing in parks that are closed as a result of park-owner fraud or as a result of health and safety concerns as determined by the local board of health. Payments shall be made upon the department's verification of eligibility, subject to the availability of remaining funds. Eligibility for relocation assistance funds is limited to low-income households. As used in this section, "low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the mobile or manufactured home is located.

(2) Assistance for closures occurring after December 31, 1995, is limited to persons who maintain ownership of and relocate their mobile home or who dispose of a home not relocatable to a new site.

(3) Persons who removed and disposed of their mobile home or maintained ownership of and relocated their mobile homes are entitled to reimbursement of actual relocation expenses up to (~~seven~~) twelve thousand dollars for a double-wide home and up to (~~three~~) seven thousand five hundred dollars for a single-wide home.

(4) Any individual or organization may apply to receive funds from the mobile home park relocation fund, for use in combination with funds from public or private sources, toward relocation of tenants eligible under this section. Funds received from the mobile home park relocation fund shall only be used for relocation assistance expenses or other mobile/manufactured home ownership expenses, that include down payment assistance, if the owners are not planning to relocate their mobile home as long as their original home is removed from the park.

Passed by the House April 18, 2005.

Passed by the Senate April 6, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 400

[Engrossed Substitute House Bill 1402]

OFFENDER SUPERVISION—INTERSTATE TRAVEL

AN ACT Relating to supervision of offenders who travel or transfer to or from another state; amending RCW 9.95.204, 9.95.214, 35.20.255, and 10.64.120; adding a new section to chapter 9.94A RCW; adding a new section to chapter 3.66 RCW; adding a new section to chapter 3.50 RCW; creating a new section; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 9.94A RCW to read as follows:

(1) The department may supervise nonfelony offenders transferred to Washington pursuant to RCW 9.94A.745, the interstate compact for adult offender supervision, and shall supervise these offenders according to the provisions of this chapter.

(2) The department shall process applications for interstate transfer of felony and nonfelony offenders pursuant to RCW 9.94A.745, the interstate compact for adult offender supervision, and may charge offenders a reasonable fee for processing the application.

Sec. 2. RCW 9.95.204 and 1996 c 298 s 1 are each amended to read as follows:

(1) When a superior court places a defendant convicted of a misdemeanor or gross misdemeanor on probation and orders supervision under RCW 9.92.060 or 9.95.210, the department of corrections has initial responsibility for supervision of that defendant.

(2) A county legislative authority may assume responsibility for the supervision of all defendants within its jurisdiction who have been convicted of a misdemeanor or gross misdemeanor and sentenced to probation by a superior court. The assumption of responsibility shall be made by contract with the department of corrections on a biennial basis.

(3) If a county assumes supervision responsibility, the county shall supervise all superior court misdemeanant probationers within that county for the duration of the biennium, as set forth in the contract with the department of corrections.

(4) A contract between a county legislative authority and the department of corrections for the transfer of supervision responsibility must include, at a minimum, the following provisions:

(a) The county's agreement to supervise all misdemeanant probationers who are sentenced by a superior court within that county and who reside within that county;

(b) A reciprocal agreement regarding the supervision of superior court misdemeanant probationers sentenced in one county but who reside in another county;

(c) The county's agreement to comply with the minimum standards for classification and supervision of offenders as required under RCW 9.95.206;

(d) The amount of funds available from the department of corrections to the county for supervision of superior court misdemeanant probationers, calculated according to a formula established by the department of corrections;

(e) A method for the payment of funds by the department of corrections to the county;

(f) The county's agreement that any funds received by the county under the contract will be expended only to cover costs of supervision of superior court misdemeanant probationers;

(g) The county's agreement to account to the department of corrections for the expenditure of all funds received under the contract and to submit to audits for compliance with the supervision standards and financial requirements of this section;

(h) Provisions regarding rights and remedies in the event of a possible breach of contract or default by either party; and

(i) Provisions allowing for voluntary termination of the contract by either party, with good cause, after sixty days' written notice.

(5) If the contract between the county and the department of corrections is terminated for any reason, the department of corrections shall reassume responsibility for supervision of superior court misdemeanant probationers

within that county. In such an event, the department of corrections retains any and all rights and remedies available by law and under the contract.

(6) The state of Washington, the department of corrections and its employees, community corrections officers, and volunteers who assist community corrections officers are not liable for any harm caused by the actions of a superior court misdemeanor probationer who is under the supervision of a county. A county, its probation department and employees, probation officers, and volunteers who assist probation officers are not liable for any harm caused by the actions of a superior court misdemeanor probationer who is under the supervision of the department of corrections. This subsection applies regardless of whether the supervising entity is in compliance with the standards of supervision at the time of the misdemeanor probationer's actions.

(7) The state of Washington, the department of corrections and its employees, community corrections officers, any county under contract with the department of corrections pursuant to this section and its employees, probation officers, and volunteers who assist community corrections officers and probation officers in the superior court misdemeanor probation program are not liable for civil damages resulting from any act or omission in the rendering of superior court misdemeanor probation activities unless the act or omission constitutes gross negligence. For purposes of this section, "volunteers" is defined according to RCW 51.12.035.

(8)(a) If a misdemeanor probationer requests permission to travel or transfer to another state, the assigned probation officer employed or contracted for by the county shall determine whether such request is subject to RCW 9.94A.745, the interstate compact for adult offender supervision. If such request is subject to the compact, the probation officer shall:

(i) Notify the department of corrections of the probationer's request;

(ii) Provide the department of corrections with the supporting documentation it requests for processing an application for transfer;

(iii) Notify the probationer of the fee due to the department of corrections for processing an application under the compact;

(iv) Cease supervision of the probationer while another state supervises the probationer pursuant to the compact;

(v) Resume supervision if the probationer returns to this state before the term of probation expires.

(b) The probationer shall receive credit for time served while being supervised by another state.

Sec. 3. RCW 9.95.214 and 1996 c 298 s 4 are each amended to read as follows:

Whenever a defendant convicted of a misdemeanor or gross misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and the defendant is supervised by the department of corrections or a county probation department, the department or county probation department may assess and collect from the defendant for the duration of the term of supervision a monthly assessment not to exceed one hundred dollars per month. This assessment shall be paid to the agency supervising the defendant and shall be applied, along with funds appropriated by the legislature, toward the payment or part payment of the cost of supervising the defendant. The department or county probation department shall suspend such assessment while the defendant is being supervised by

another state pursuant to RCW 9.94A.745, the interstate compact for adult offender supervision.

NEW SECTION, Sec. 4. A new section is added to chapter 3.66 RCW to read as follows:

(1) If a person placed on probation for one year or more for a misdemeanor or gross misdemeanor by a district court requests permission to travel or transfer to another state, the assigned probation officer shall determine whether such request is subject to RCW 9.94A.745, the interstate compact for adult offender supervision. If such request is subject to the compact, the probation officer shall:

- (a) Notify the department of corrections of the probationer's request;
- (b) Provide the department of corrections with the supporting documentation it requests for processing an application for transfer;
- (c) Notify the probationer of the fee due to the department of corrections for processing an application under the compact;
- (d) Cease supervision of the probationer while another state supervises the probationer pursuant to the compact;
- (e) Resume supervision if the probationer returns to this state before the term of probation expires.

(2) The probationer shall receive credit for time served while being supervised by another state.

(3) If the probationer is returned to the state at the request of the receiving state under rules of the interstate compact for adult offender supervision, the department of corrections is responsible for the cost of returning the probationer.

(4) The state of Washington, the department of corrections and its employees, and any county and its employees are not liable for civil damages resulting from any act or omission authorized or required under this section unless the act or omission constitutes gross negligence.

Sec. 5. RCW 35.20.255 and 2001 c 94 s 3 are each amended to read as follows:

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

(2)(a) If a defendant whose sentence has been deferred requests permission to travel or transfer to another state, the director of probation services or a

designee thereof shall determine whether such request is subject to RCW 9.94A.745, the interstate compact for adult offender supervision. If such request is subject to the compact, the director or designee shall:

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

NEW SECTION. Sec. 6. A new section is added to chapter 3.50 RCW to read as follows:

(1) If a person placed on probation for one year or more for a misdemeanor or gross misdemeanor by a municipal court requests permission to travel or transfer to another state, the assigned probation officer shall determine whether such request is subject to RCW 9.94A.745, the interstate compact for adult offender supervision. If such request is subject to the compact, the probation officer shall:

- (a) Notify the department of corrections of the probationer's request;
- (b) Provide the department of corrections with the supporting documentation it requests for processing an application for transfer;
- (c) Notify the probationer of the fee due to the department of corrections for processing an application under the compact;
- (d) Cease supervision of the probationer while another state supervises the probationer pursuant to the compact;
- (e) Resume supervision if the probationer returns to this state before the term of probation expires.

(2) The probationer shall receive credit for time served while being supervised by another state.

(3) If the probationer is returned to the state at the request of the receiving state under rules of the interstate compact for adult offender supervision, the department of corrections is responsible for the cost of returning the probationer.

(4) The state of Washington, the department of corrections and its employees, and any city and its employees are not liable for civil damages resulting from any act or omission authorized or required under this section unless the act or omission constitutes gross negligence.

Sec. 7. RCW 10.64.120 and 1996 c 298 s 6 are each amended to read as follows:

(1) Every judge of a court of limited jurisdiction shall have the authority to levy upon a person a monthly assessment not to exceed one hundred dollars for services provided whenever the person is referred by the court to the misdemeanor probation department for evaluation or supervision services. The assessment may also be made by a judge in superior court when such misdemeanor or gross misdemeanor cases are heard in the superior court.

(2) For the purposes of this section the office of the administrator for the courts shall define a probation department and adopt rules for the qualifications of probation officers based on occupational and educational requirements developed by an oversight committee. This oversight committee shall include a representative from the district and municipal court judges association, the misdemeanor corrections association, the office of the administrator for the courts, and associations of cities and counties. The oversight committee shall consider qualifications that provide the training and education necessary to (a) conduct presentencing and postsentencing background investigations, including sentencing recommendations to the court regarding jail terms, alternatives to incarceration, and conditions of release; and (b) provide ongoing supervision and assessment of offenders' needs and the risk they pose to the community.

(3) It shall be the responsibility of the probation services office to implement local procedures approved by the court of limited jurisdiction to ensure collection and payment of such fees into the general fund of the city or county treasury.

(4) Revenues raised under this section shall be used to fund programs for probation services and shall be in addition to those funds provided in RCW 3.62.050.

(5) Assessments and fees levied upon a probationer under this section must be suspended while the probationer is being supervised by another state under RCW 9.94A.745, the interstate compact for adult offender supervision.

NEW SECTION. Sec. 8. This act applies to offenders sentenced before, on, or after the effective date of this act.

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 July 1, 2005.

Passed by the House April 18, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 401

[Substitute House Bill 1406]

SPECIALIZED FOREST PRODUCTS PERMITS

AN ACT Relating to specialized forest products; amending RCW 76.48.020, 76.48.050, 76.48.060, 76.48.070, 76.48.075, 76.48.085, 76.48.094, 76.48.096, 76.48.098, 76.48.100, 76.48.110, and 76.48.140; and adding a new section to chapter 76.48 RCW.

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

Sec. 1. RCW 76.48.020 and 2000 c 11 s 18 are each amended to read as follows:

~~((Unless otherwise required by the context, as used in this chapter:))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authorization" means a properly completed preprinted form authorizing the transportation or possession of Christmas trees which contains the information required by RCW 76.48.080, a sample of which is filed before the harvesting occurs with the sheriff of the county in which the harvesting is to occur.

(2) "Bill of lading" means a written or printed itemized list or statement of particulars pertinent to the transportation or possession of a specialized forest product.

(3) "Cascara bark" means the bark of a Cascara tree.

~~((3))~~ (4) "Cedar processor" means any person who purchases, takes, or retains possession of cedar products or cedar salvage for later sale in the same or modified form following removal and delivery from the land where harvested.

~~((4))~~ (5) "Cedar products" means cedar shakeboards, shake and shingle bolts, and rounds one to three feet in length.

~~((5))~~ (6) "Cedar salvage" means cedar chunks, slabs, stumps, and logs having a volume greater than one cubic foot and being harvested or transported from areas not associated with the concurrent logging of timber stands (a) under a forest practices application approved or notification received by the department of natural resources, or (b) under a contract or permit issued by an agency of the United States government.

~~((6))~~ (7) "Christmas trees" means any evergreen trees or the top thereof, commonly known as Christmas trees, with limbs and branches, with or without roots, including fir, pine, spruce, cedar, and other coniferous species.

~~((7))~~ (8) "Cut or picked evergreen foliage," commonly known as brush, means evergreen boughs, huckleberry, salal, fern, Oregon grape, rhododendron, mosses, bear grass, scotch broom (*Cytisus scoparius*), and other cut or picked evergreen products. "Cut or picked evergreen foliage" does not mean cones, berries, any foliage that does not remain green year-round, or seeds.

~~((8))~~ (9) "Harvest" means to separate, by cutting, prying, picking, peeling, breaking, pulling, splitting, or otherwise removing, a specialized forest product (a) from its physical connection or contact with the land or vegetation upon which it is or was growing or (b) from the position in which it is lying upon the land.

~~((9))~~ (10) "Harvest site" means each location where one or more persons are engaged in harvesting specialized forest products close enough to each other that communication can be conducted with an investigating law enforcement officer in a normal conversational tone.

~~((10))~~ (11) "Landowner" means, with regard to real property, the private owner, the state of Washington or any political subdivision, the federal government, or a person who by deed, contract, or lease has authority to harvest and sell forest products of the property. "Landowner" does not include the purchaser or successful high bidder at a public or private timber sale.

~~((41))~~ (12) "Native ornamental trees and shrubs" means any trees or shrubs which are not nursery grown and which have been removed from the ground with the roots intact.

~~((42))~~ (13) "Permit area" means a designated tract of land that may contain single or multiple harvest sites.

~~((43))~~ (14) "Person" includes the plural and all corporations, foreign or domestic, copartnerships, firms, and associations of persons.

~~((44))~~ (15) "Processed cedar products" means cedar shakes, shingles, fence posts, hop poles, pickets, stakes, rails, or rounds less than one foot in length.

~~((45))~~ (16) "Sheriff" means, for the purpose of validating specialized forest products permits, the county sheriff, deputy sheriff, or an authorized employee of the sheriff's office or an agent of the office.

~~((46))~~ (17) "Specialized forest products" means Christmas trees, native ornamental trees and shrubs, cut or picked evergreen foliage, cedar products, cedar salvage, processed cedar products, specialty wood, wild edible mushrooms, and Cascara bark.

~~((47))~~ (18) "Specialized forest products permit" means a printed document in a form ~~((specified))~~ printed by the department of natural resources, or true copy thereof, that is signed by a landowner or his or her authorized agent or representative, referred to in this chapter as "permittors" and validated by the county sheriff and authorizes a designated person, referred to in this chapter as "permittee," who has also signed the permit, to harvest and transport a designated specialized forest product from land owned or controlled and specified by the permittor and that is located in the county where the permit is issued.

~~((48))~~ (19) "Specialty wood" means wood that is:

(a) In logs less than eight feet in length, chunks, slabs, stumps, or burls; and

(b) One or more of the following:

(i) Of the species western red cedar, Englemann spruce, Sitka spruce, big leaf maple, or western red alder;

(ii) Without knots in a portion of the surface area at least twenty-one inches long and seven and a quarter inches wide when measured from the outer surface toward the center; or

(iii) Suitable for the purposes of making musical instruments or ornamental boxes.

(20) "Specialty wood buyer" means the first person that receives any specialty wood product after it leaves the harvest site.

(21) "Specialty wood processor" means any person who purchases, takes, or retains possession of specialty wood products or specialty wood salvage for later sale in the same or modified form following removal and delivery from the land where harvested.

(22) "Transportation" means the physical conveyance of specialized forest products outside or off of a harvest site by any means.

~~((49))~~ (23) "True copy" means a replica of a validated specialized forest products permit as reproduced by a copy machine capable of effectively reproducing the information contained on the permittee's copy of the specialized forest products permit. A copy is made true by the permittee or the permittee and permittor signing in the space provided on the face of the copy. A true copy

will be effective until the expiration date of the specialized forest products permit unless the permittee or the permittee and permittor specify an earlier date. A permittor may require the actual signatures of both the permittee and permittor for execution of a true copy by so indicating in the space provided on the original copy of the specialized forest products permit. A permittee, or, if so indicated, the permittee and permittor, may condition the use of the true copy to harvesting only, transportation only, possession only, or any combination thereof.

~~((20))~~ (24) "Wild edible mushrooms" means edible mushrooms not cultivated or propagated by artificial means.

Sec. 2. RCW 76.48.050 and 1995 c 366 s 4 are each amended to read as follows:

Specialized forest products permits shall consist of properly completed permit forms validated by the sheriff of the county in which the specialized forest products are to be harvested. Each permit shall be separately numbered and the issuance of the permits shall be (~~issued~~) by consecutive numbers. All specialized forest products permits shall expire at the end of the calendar year in which issued, or sooner, at the discretion of the permittor. A properly completed specialized forest products permit form shall include:

- (1) The date of its execution and expiration;
- (2) The name, address, telephone number, if any, and signature of the permittor;
- (3) The name, address, telephone number, if any, and signature of the permittee;
- (4) The type of specialized forest products to be harvested or transported;
- (5) The approximate amount or volume of specialized forest products to be harvested or transported;
- (6) The legal description of the property from which the specialized forest products are to be harvested or transported, including the name of the county, or the state or province if outside the state of Washington;
- (7) A description by local landmarks of where the harvesting is to occur, or from where the specialized forest products are to be transported;
- (8) ~~((The number from some type of))~~ For cedar products, cedar salvage, and specialty wood, a copy of a map or aerial photograph, with defined permitted boundaries, included as an attachment to the permit;
- (9) A copy of a valid picture identification; and
- ~~((9))~~ (10) Any other condition or limitation which the permittor may specify.

Except for the harvesting of Christmas trees, the permit or true copy thereof must be carried by the permittee and the permittee's agents and be available for inspection at all times. For the harvesting of Christmas trees only a single permit or true copy thereof is necessary to be available at the harvest site.

Sec. 3. RCW 76.48.060 and 1995 c 366 s 5 are each amended to read as follows:

- (1) A specialized forest products permit validated by the county sheriff shall be obtained by a person prior to harvesting from any lands, including his or her own, more than five Christmas trees, more than five native ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any cedar

products, cedar salvage, processed cedar products, or more than five pounds of Cascara bark, or more than ~~((three))~~ five United States gallons of a single species of wild edible mushroom ~~((and more than an aggregate total of nine United States gallons of wild edible mushrooms, plus one wild edible mushroom))~~.

(2) Specialized forest products permit forms shall be provided by the department of natural resources, and shall be made available through the office of the county sheriff to permittees or permitors in reasonable quantities. A permit form shall be completed in triplicate for each permittor's property on which a permittee harvests specialized forest products. A properly completed permit form shall be mailed or presented for validation to the sheriff of the county in which the specialized forest products are to be harvested.

(3) Before a permit form is validated by the sheriff, sufficient personal identification may be required to reasonably identify the person mailing or presenting the permit form and the sheriff may conduct other investigations as deemed necessary to determine the validity of the information alleged on the form. When the sheriff is reasonably satisfied as to the truth of the information, the form shall be validated with the sheriff's validation stamp.

(4) Upon validation, the form shall become the specialized forest products permit authorizing the harvesting, possession, or transportation of specialized forest products, subject to any other conditions or limitations which the permittor may specify. Two copies of the permit shall be given or mailed to the permittor, or one copy shall be given or mailed to the permittor and the other copy given or mailed to the permittee. The original permit shall be retained in the office of the county sheriff validating the permit.

(5) In the event a single land ownership is situated in two or more counties, a specialized forest product permit shall be completed as to the land situated in each county.

(6) While engaged in harvesting of specialized forest products, permittees, or their agents or employees, must have readily available at each harvest site a valid permit or true copy of the permit.

Sec. 4. RCW 76.48.070 and 1995 c 366 s 6 are each amended to read as follows:

(1) Except as provided in RCW 76.48.100 and 76.48.075, it is unlawful for any person (a) to possess, (b) to transport, or (c) to possess and transport within the state of Washington, subject to any other conditions or limitations specified in the specialized forest products permit by the permittor, more than five Christmas trees, more than five native ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any processed cedar products, or more than five pounds of Cascara bark, or more than ~~((three))~~ five gallons of a single species of wild edible ~~((mushrooms and more than an aggregate total of nine gallons of wild edible mushrooms, plus one wild edible))~~ mushroom without having in his or her possession a written authorization, sales invoice, bill of lading, or specialized forest products permit or a true copy thereof evidencing his or her title to or authority to have possession of specialized forest products being so possessed or transported.

(2) It is unlawful for any person either (a) to possess, (b) to transport, or (c) to possess and transport within the state of Washington any cedar products ~~((or)),~~ cedar salvage, or specialty wood without having in his or her possession a specialized forest products permit or a true copy thereof evidencing his or her

title to or authority to have possession of the materials being so possessed or transported. The specialized forest products permit or true copy are valid to possess, transport, or possess and transport the cedar products, cedar salvage, or specialty wood from the harvest site to the first cedar or specialty wood processor or buyer. For purposes of this subsection, a true copy requires the actual signatures of both the permittee and the permittor for the execution of a true copy.

Sec. 5. RCW 76.48.075 and 1995 c 366 s 7 are each amended to read as follows:

(1) It is unlawful for any person to transport or cause to be transported into this state from any other state or province specialized forest products, except those harvested from that person's own property, without: (a) First acquiring and having readily available for inspection a document indicating the true origin of the specialized forest products as being outside the state, or (b) without acquiring a specialized forest products permit as provided in subsection (4) of this section.

(2) Any person transporting or causing to be transported specialized forest products into this state from any other state or province shall, upon request of any person to whom the specialized forest products are sold or delivered or upon request of any law enforcement officer, prepare and sign a statement indicating the true origin of the specialized forest products, the date of delivery, and the license number of the vehicle making delivery, and shall leave the statement with the person making the request.

(3) It is unlawful for any person to possess specialized forest products, transported into this state, with knowledge that the products were introduced into this state in violation of this chapter.

(4) When any person transporting or causing to be transported into this state specialized forest products elects to acquire a specialized forest products permit, the specialized forest products transported into this state shall be deemed to be harvested in the county of entry, and the sheriff of that county may validate the permit as if the products were so harvested, except that the permit shall also indicate the actual harvest site outside the state.

(5) A cedar or specialty wood processor shall comply with RCW 76.48.096 by requiring a person transporting specialized forest products into this state from any other state or province to display a specialized forest products permit, or true copy thereof, or other governmental document indicating the true origin of the specialized forest products as being outside the state. For purposes of this subsection, a true copy requires the actual signatures of both the permittee and the permittor for the execution of a true copy. The cedar or specialty wood processor shall make and maintain a record of the purchase, taking possession, or retention of cedar products and cedar salvage in compliance with RCW 76.48.094.

(6) If, under official inquiry, investigation, or other authorized proceeding regarding specialized forest products not covered by a valid specialized forest products permit or other acceptable document, the inspecting law enforcement officer has probable cause to believe that the specialized forest products were harvested in this state or wrongfully obtained in another state or province, the officer may take into custody and detain, for a reasonable time, the specialized forest products, all supporting documents, invoices, and bills of lading, and the

vehicle in which the products were transported until the true origin of the specialized forest products can be determined.

Sec. 6. RCW 76.48.085 and 2000 c 11 s 19 are each amended to read as follows:

Buyers who purchase specialized forest products are required to record (1) the permit number; (2) the type of forest product purchased; (3) the permit holder's name; and (4) the amount of forest product purchased. The buyer or processor shall keep a record of this information for a period of one year from the date of purchase and must make the records available for inspection upon demand by authorized enforcement officials.

The buyer of specialized forest products must record the license plate number of the vehicle transporting the forest products on the bill of sale, as well as the seller's permit number on the bill of sale. This section shall not apply to transactions involving Christmas trees.

This section shall not apply to buyers of specialized forest products at the retail sales level.

Sec. 7. RCW 76.48.094 and 1979 ex.s. c 94 s 9 are each amended to read as follows:

(1) Cedar or specialty wood processors shall make and maintain a record of the purchase, taking possession, or retention of cedar products (~~and~~), cedar salvage, or specialty wood for at least one year after the date of receipt. ((The record shall be legible and shall include the date of delivery, the license number of the vehicle delivering the products, the driver's name, and the specialized forest products permit number or the information provided for in RCW 76.48.075(5).)) The record must be legible and must be made at the time each delivery is made.

(2) The bill of lading must accompany all cedar products, cedar salvage, or specialty wood products after the products are received by the cedar or specialty wood processor. The bill of lading must include the specialized forest products permit number or the information provided for in RCW 76.48.075(5) and must also specify:

(a) The date of transportation;

(b) The name and address of the first cedar or specialty wood processor or buyer who recorded the specialized forest products information;

(c) The name and address from where the cedar or specialty wood products are being transported;

(d) The name of the person receiving the cedar or specialty wood products;

(e) The address to where the cedar or specialty wood products are being transported;

(f) The name of the driver;

(g) The vehicle license number;

(h) The type of cedar or specialty wood product being shipped; and

(i) The amount of cedar or specialty wood product being shipped.

Sec. 8. RCW 76.48.096 and 1995 c 366 s 8 are each amended to read as follows:

It is unlawful for any cedar or specialty wood buyer or processor to purchase, take possession, or retain cedar or specialty wood products or cedar salvage subsequent to the harvesting and prior to the retail sale of the products,

unless the supplier thereof displays a specialized forest products permit, or true copy thereof that appears to be valid, or obtains the information under RCW 76.48.075(5).

Sec. 9. RCW 76.48.098 and 1995 c 366 s 9 are each amended to read as follows:

Every cedar or specialty wood buyer or processor shall prominently display a valid registration certificate, or copy thereof, obtained from the department of revenue under RCW 82.32.030 at each location where the buyer or processor receives cedar products ((~~or~~), cedar salvage, or specialty wood.

Permittees shall sell cedar products ((~~or~~), cedar salvage, or specialty wood products only to cedar or specialty wood processors displaying registration certificates which appear to be valid.

Sec. 10. RCW 76.48.100 and 1995 c 366 s 10 are each amended to read as follows:

The provisions of this chapter do not apply to:

(1) Nursery grown products.

(2) Logs (except as included in the definition of "cedar salvage" under RCW 76.48.020), poles, pilings, or other major forest products from which substantially all of the limbs and branches have been removed, specialty wood, and cedar salvage when harvested concurrently with timber stands (a) under an approved forest practices application or notification, or (b) under a contract or permit issued by an agency of the United States government.

(3) The activities of a landowner, his or her agent, or representative, or of a lessee of land in carrying on noncommercial property management, maintenance, or improvements on or in connection with the land of the landowner or lessee.

Sec. 11. RCW 76.48.110 and 1995 c 366 s 11 are each amended to read as follows:

(1) Whenever any law enforcement officer has probable cause to believe that a person is harvesting or is in possession of or transporting specialized forest products in violation of the provisions of this chapter, he or she may, at the time of making an arrest, seize and take possession of any specialized forest products found. If the specialized forest product is a cedar product, cedar salvage, or specialty wood, at the time of making an arrest the law enforcement officer may seize and take possession of any equipment, vehicles, tools, or paperwork. The law enforcement officer shall provide reasonable protection for the equipment, vehicles, tools, paperwork, or specialized forest products involved during the period of litigation or he or she shall dispose of the equipment, vehicles, tools, paperwork, or specialized forest products at the discretion or order of the court before which the arrested person is ordered to appear.

(2) Upon any disposition of the case by the court, the court shall make a reasonable effort to return the equipment, vehicles, tools, paperwork, or specialized forest products to its rightful owner or pay the proceeds of any sale of specialized forest products less any reasonable expenses of the sale to the rightful owner. If for any reason, the proceeds of the sale cannot be disposed of to the rightful owner, the proceeds, less the reasonable expenses of the sale, shall be paid to the treasurer of the county in which the violation occurred. The county treasurer shall deposit the same in the county general fund. The return of

the equipment, vehicles, tools, paperwork, or specialized forest products or the payment of the proceeds of any sale of products seized to the owner shall not preclude the court from imposing any fine or penalty upon the violator for the violation of the provisions of this chapter.

Sec. 12. RCW 76.48.140 and 1977 ex.s. c 147 s 15 are each amended to read as follows:

All fines collected for violations of any provision of this chapter shall be paid into the general fund of the county treasury of the county in which the violation occurred and distributed equally among the district courts in the county, the county sheriff's office, and the county's general fund.

NEW SECTION. Sec. 13. A new section is added to chapter 76.48 RCW to read as follows:

The department of natural resources is the designated agency to develop and print the specialized forest products permit and distribute it to the county sheriffs. In addition, the department of natural resources shall develop educational material and other printed information for law enforcement, forest landowners, and specialized forest products harvesters, buyers, and processors specific to this chapter.

Passed by the House March 7, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 402

[Substitute House Bill 1408]

INDIVIDUAL DEVELOPMENT ACCOUNTS

AN ACT Relating to individual development accounts; reenacting and amending RCW 43.79A.040; adding new sections to chapter 43.31 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. This act shall be known as the saving, earning, and enabling dreams (SEED) act.

NEW SECTION. Sec. 2. A new section is added to chapter 43.31 RCW to read as follows:

The legislature finds that economic well-being encompasses not only income, spending, and consumption, but also savings, investment, and asset-building. The building of assets, in particular, can improve individuals' economic independence and stability. The legislature further finds that it is appropriate for the state to institute an asset-based strategy to assist low-income families. It is the purpose of this act to promote job training, home ownership, and business development among low-income individuals and to provide assistance in meeting the financial goals of low-income individuals.

NEW SECTION. Sec. 3. A new section is added to chapter 43.31 RCW to read as follows:

The definitions in this section apply throughout sections 2 through 7 of this act unless the context clearly requires otherwise.

(1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Foster youth" means a person who is fifteen years of age or older who is a dependent of the department of social and health services; or a person who is at least fifteen years of age, but not more than twenty-three years of age, who was a dependent of the department of social and health services for at least twenty-four months after attaining thirteen years of age.

(4) "Individual development account" or "account" means an account established by contract between a low-income individual and a sponsoring organization for the benefit of the low-income individual and funded through periodic contributions by the low-income individual which are matched with contributions by or through the sponsoring organization.

(5) "Low-income individual" means a person whose household income is equal to or less than either:

(a) Eighty percent of the median family income, adjusted for household size, for the county or metropolitan statistical area where the person resides; or

(b) Two hundred percent of the federal poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2).

(6) "Program" means the individual development account program established pursuant to sections 2 through 7 of this act.

(7) "Sponsoring organization" means: (a) A nonprofit, fund-raising organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code as amended and in effect on January 1, 2005; (b) a housing authority established under RCW 35.82.030; or (c) a federally recognized Indian tribe.

NEW SECTION. Sec. 4. A new section is added to chapter 43.31 RCW to read as follows:

An individual development account program is hereby established within the department for the purpose of facilitating the creation by sponsoring organizations of individual development accounts for low-income individuals.

(1) The department shall select sponsoring organizations to establish and monitor individual development accounts using the following criteria:

(a) The ability of the sponsoring organization to implement and administer an individual development account program, including the ability to verify a low-income individual's eligibility, certify that matching deposits are used only for approved purposes, and exercise general fiscal accountability;

(b) The capacity of the sponsoring organization to provide or raise funds to match the contributions made by low-income individuals to their individual development accounts;

(c) The capacity of the sponsoring organization to provide or arrange for the provision of financial counseling and other related services to low-income individuals;

(d) The links the sponsoring organization has to other activities and programs related to the purpose of this act; and

(e) Such other criteria as the department determines are consistent with the purpose of this act and ease of administration.

(2) An individual development account may be established by or on behalf of an eligible low-income individual to enable the individual to accumulate funds for the following purposes:

- (a) The acquisition of postsecondary education or job training;
- (b) The purchase of a primary residence, including any usual or reasonable settlement, financing, or other closing costs;
- (c) The capitalization of a small business. Account moneys may be used for capital, land, plant, equipment, and inventory expenses or for working capital pursuant to a business plan. The business plan must have been developed with a business counselor, trainer, or financial institution approved by the sponsoring organization. The business plan shall include a description of the services or goods to be sold, a marketing strategy, and projected financial statements;
- (d) The purchase of a computer, an automobile, or home improvements; or
- (e) The purchase of assistive technologies that will allow a person with a disability to participate in work-related activities.

(3) An eligible low-income individual participating in the program must contribute to an individual development account. The contributions may be derived from earned income or other income, as provided by the department. Other income shall include child support payments, supplemental security income, and disability benefits.

(4) A sponsoring organization may authorize a low-income individual for whom an individual development account has been established to withdraw all or part of the individual's deposits for the following emergencies:

- (a) Necessary medical expenses;
- (b) To avoid eviction of the individual from the individual's residence;
- (c) Necessary living expenses following loss of employment; or
- (d) Such other circumstances as the sponsoring organization determines merit emergency withdrawal.

The low-income individual making an emergency withdrawal shall reimburse the account for the amount withdrawn within twelve months of the date of withdrawal or the individual development account shall be closed.

(5) Funds held in an individual development account established under sections 2 through 7 of this act shall not be used in the determination of eligibility for, or the amount of, assistance in any state or federal means-tested program.

(6) The department shall adopt rules as necessary to implement this act, including rules regulating the use of individual development accounts by eligible low-income individuals. The department's rules shall require that funds held in an individual development account are to be withdrawn only for the purposes specified in subsection (2) of this section or withdrawn as permitted for emergencies under subsection (4) of this section.

(7) Nothing in this section shall be construed to create an entitlement to matching moneys.

NEW SECTION, Sec. 5. A new section is added to chapter 43.31 RCW to read as follows:

(1) A foster youth individual development account program is hereby established within the individual development account program established pursuant to section 4 of this act for the purpose of facilitating the creation by sponsoring organizations of individual development accounts for foster youth.

(2) The department shall select sponsoring organizations to establish and monitor individual development accounts for foster youth from those entities with whom the department of social and health services contracts for independent living services for youth who are or have been dependents of the department of social and health services. (3) An individual development account may be established by or on behalf of a foster youth to enable the individual to accumulate funds for the following purposes:

- (a) The acquisition of postsecondary education or job training;
- (b) Housing needs, including rent, security deposit, and utilities costs;
- (c) The purchase of a computer if necessary for postsecondary education or job training;
- (d) The purchase of a car if necessary for employment; and
- (e) Payment of health insurance premiums.

(4) A foster youth participating in the program must contribute to an individual development account. The contributions may be derived from earned income or other income, as provided by the department. Other income shall include financial incentives for educational achievement provided by entities contracted with the department of social and health services for independent living services for youth who are or have been dependents of the department of social and health services.

NEW SECTION. Sec. 6. A new section is added to chapter 43.31 RCW to read as follows:

(1) An account is created in the custody of the state treasurer to be known as the individual development account program account. The account shall consist of all moneys appropriated to the account by the legislature and any other federal, state, or private funds, appropriated or nonappropriated, as the department receives for the purpose of matching low-income individuals' contributions to their individual development accounts. Expenditures from the account may be used only for the following:

(a) Grants to sponsoring organizations selected by the department to participate in the individual development account program to assist sponsoring organizations in providing or arranging for the provision of financial counseling and other related services to low-income individuals participating in the program and for program administration purposes;

(b) A match to be determined by the department of up to four dollars for every dollar deposited by an individual into the individual's individual development account, except that the maximum amount provided as a match for each individual development account shall be four thousand dollars; and

(c) The department's administrative expenses in carrying out the purposes of this act.

(2) Only the director or the director's designee may authorize expenditures from the account.

(3) The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 7. A new section is added to chapter 43.31 RCW to read as follows:

Sponsoring organizations may seek additional funds to increase the match rate and the maximum annual match amount established pursuant to section 5 of

this act. Such funds may also be used for purposes in addition to those provided in section 4(2) of this act.

Sec. 8. RCW 43.79A.040 and 2004 c 246 s 8 and 2004 c 58 s 10 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.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and fire fighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, the individual development account program account, and the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account). However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county

advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 9. A new section is added to chapter 43.31 RCW to read as follows:

The department shall annually report to the legislature and the governor on the individual development account program established pursuant to sections 2 through 7 of this act.

NEW SECTION. Sec. 10. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2005, in the omnibus appropriations act, this act is null and void.

Passed by the House April 18, 2005.

Passed by the Senate April 6, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 403

[Substitute House Bill 1426]

INCARCERATED PARENTS—SERVICES TO CHILDREN

AN ACT Relating to children of incarcerated parents; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that children of incarcerated parents face significant obstacles in their lives. In many cases, these children have witnessed the arrest of a parent, face unstable living arrangements and multiple school placements, live under financial hardship, and experience the social stigma associated with their parents' incarceration. As a result of these factors, children of incarcerated parents are at risk for poor academic achievement, substance abuse, and delinquency and criminal activity that can lead to their own incarceration.

The legislature intends to support children in the state whose parents are incarcerated by encouraging the state agencies involved with families of individuals who are incarcerated to coordinate and expand existing services for these families in order to improve the well-being of children of incarcerated parents both over the short term and the long term.

NEW SECTION. Sec. 2. (1) The department of corrections, in partnership with the department of social and health services, shall establish an oversight committee to develop a comprehensive interagency plan to provide the necessary services and supports for the children of this state whose parents are incarcerated in jail or prison.

(2) The interagency plan shall include the following:

(a) Identification of existing state services and programs, as well as recognized community-based services and programs, for children whose parents are incarcerated;

(b) Identification of methods to improve collaboration and coordination of existing services and programs;

(c) Recommendations concerning new services and programs for children whose parents are incarcerated, involving both interagency and community-based efforts; and

(d) Identification of evidence-based practices and areas for further research to support the long-term provision of services and programs for children whose parents are incarcerated, including the following:

(i) Identification and ongoing collection of data relating to incarcerated individuals in the state who have children under eighteen years of age; and

(ii) Identification and sharing of information relating to children of incarcerated parents who are involved in the juvenile justice or child welfare systems, to the extent permissible under state and federal law.

(3) The oversight committee shall include the following:

(a) Representatives with decision-making authority of: The department of corrections, the children's administration of the department of social and health services, the juvenile rehabilitation administration of the department of social and health services, the Washington association of sheriffs and police chiefs, the office of superintendent of public instruction, the courts, prosecuting attorneys and public defenders, and community-based agencies working with families of individuals who are incarcerated; and

(b) Caregivers of children whose parents are incarcerated.

(4) The oversight committee shall seek input from children whose parents are or have been incarcerated and from parents who have been incarcerated in developing the interagency plan.

(5) The oversight committee shall develop the interagency plan by June 30, 2006, with an interim report due to the appropriate committees of the legislature by January 1, 2006.

Passed by the House April 18, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 404

[Substitute House Bill 1463]

MENINGOCOCCAL DISEASE—STUDENT, PARENT INFORMATION

AN ACT Relating to meningococcal immunization; amending RCW 28A.210.080; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 28A.210.080 and 1990 c 33 s 192 are each amended to read as follows:

(1) The attendance of every child at every public and private school in the state and licensed day care center shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school or center, of proof of either ~~((1))~~ (a) full immunization, ~~((2))~~ (b) the initiation of and compliance with a schedule of immunization, as required by rules of the state board of health, or ~~((3))~~ (c) a certificate of exemption as provided for in RCW

28A.210.090. The attendance at the school or the day care center during any subsequent school year of a child who has initiated a schedule of immunization shall be conditioned upon the presentation of proof of compliance with the schedule on the child's first day of attendance during the subsequent school year. Once proof of full immunization or proof of completion of an approved schedule has been presented, no further proof shall be required as a condition to attendance at the particular school or center.

(2)(a) Beginning with sixth grade entry, every public and private school in the state shall provide parents and guardians with information about meningococcal disease and its vaccine at the beginning of every school year. The information about meningococcal disease shall include:

(i) Its causes and symptoms, how meningococcal disease is spread, and the places where parents and guardians may obtain additional information and vaccinations for their children; and

(ii) Current recommendations from the United States centers for disease control and prevention regarding the receipt of vaccines for meningococcal disease and where the vaccination can be received.

(b) This subsection shall not be construed to require the department of health or the school to provide meningococcal vaccination to students.

(c) The department of health shall prepare the informational materials and shall consult with the office of superintendent of public instruction.

(d) This subsection does not create a private right of action.

****NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005.***

***Sec. 2 was vetoed. See message at end of chapter.**

Passed by the House April 20, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 11, 2005, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 11, 2005.

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

"I am returning, without my approval as to Section 2, Substitute House Bill No. 1463 entitled:

"AN ACT Relating to meningococcal immunization."

This bill requires that public and private schools provide parents or guardians of students in 6th grade and above with information on meningococcal disease every school year. It is an important bill that is consistent with our ongoing public health efforts.

Section 2 of the bill inserts an emergency clause that is not necessary for this type of legislation. It is reasonable to give the Department of Health and Office of the Superintendent of Public Instruction time over the summer to develop the informational materials that will be distributed in schools.

For these reasons, I have vetoed Section 2 of Substitute House Bill No. 1463.

With the exception of sections Section 2, Substitute House Bill No. 1463 is approved."

CHAPTER 405

[House Bill 1690]

HEALTH CARE SERVICES—TAXES

AN ACT Relating to the applicability of certain taxes and assessments to state funded health care services; and amending RCW 48.14.0201 and 48.41.090.

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

Sec. 1. RCW 48.14.0201 and 2004 c 260 s 24 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 RCW 48.44.010, or a self-funded multiple employer welfare arrangement as defined in RCW 48.125.010.

(2) Each taxpayer shall 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 shall be equal to the total amount of all premiums and prepayments for health care services received by the taxpayer during the preceding calendar year multiplied by the rate of two percent.

(3) Taxpayers shall prepay their tax obligations under this section. The minimum amount of the prepayments shall be 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 shall be 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 shall 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) Moneys collected under this section shall be deposited in the general fund through March 31, 1996, and in the health services account under RCW 43.72.900 after March 31, 1996.

(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;
- (ii) The Washington basic health plan on behalf of subsidized enrollees as provided in chapter 70.47 RCW; or
- (iii) The medicaid program on behalf of elderly or disabled clients as provided in chapter 74.09 RCW when these prepayments are received prior to

July 1, 2009, and are associated with a managed care contract program that has been implemented on a voluntary demonstration or pilot project basis.

~~(c)~~ Amounts received by any health care service contractor, as defined in RCW 48.44.010, as prepayments for health care services included within the definition of practice of dentistry under RCW 18.32.020.

~~((e))~~ (d) Participant contributions to self-funded multiple employer welfare arrangements that are not taxable in this state.

(7) Beginning January 1, 2000, the state does hereby preempt the field of imposing excise or privilege taxes upon taxpayers and no county, city, town, or other municipal subdivision shall have the right to impose any such taxes upon such taxpayers. This subsection shall be 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 shall 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) 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 shall 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. If there has not been a final determination by the United States department of labor or a federal court that the taxes are not preempted by federal law, the taxes provided for in this section become effective on March 1, 2005, or thirty days following the issuance of a certificate of authority, whichever is later. During the time period between March 1, 2005, or thirty days following the issuance of a certificate of authority, whichever is later, and the final determination by the United States department of labor or a federal court, any taxes shall be deposited in an interest bearing escrow account maintained by the ~~((self-funded))~~ self-funded multiple employer welfare 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 shall be transferred to the state treasurer.

Sec. 2. RCW 48.41.090 and 2000 c 79 s 11 are each amended to read as follows:

(1) Following the close of each accounting year, the pool administrator shall determine the net premium (premiums less administrative expense allowances), the pool expenses of administration, and incurred losses for the year, taking into account investment income and other appropriate gains and losses.

(2)(a) Each member's proportion of participation in the pool shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed by the member with the commissioner; and shall be determined by multiplying the total cost of pool operation by a fraction. The numerator of the fraction equals that member's total number of resident insured persons, including spouse and dependents, covered under all

health plans in the state by that member during the preceding calendar year. The denominator of the fraction equals the total number of resident insured persons, including spouses and dependents, covered under all health plans in the state by all pool members during the preceding calendar year.

(b) For purposes of calculating the numerator and the denominator under (a) of this subsection:

(i) All health plans in the state by the state health care authority include only the uniform medical plan; ~~((and))~~

(ii) Each ten resident insured persons, including spouse and dependents, under a stop loss plan or the uniform medical plan shall count as one resident insured person;

(iii) Health plans serving medical care services program clients under RCW 74.09.035 are exempted from the calculation; and

(iv) Health plans established to serve elderly or disabled medicaid clients under chapter 74.09 RCW when the plan has been implemented on a demonstration or pilot project basis are exempted from the calculation until July 1, 2009.

(c) Except as provided in RCW 48.41.037, any deficit incurred by the pool shall be recouped by assessments among members apportioned under this subsection pursuant to the formula set forth by the board among members.

(3) The board may abate or defer, in whole or in part, the assessment of a member if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. If an assessment against a member is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other members in a manner consistent with the basis for assessments set forth in subsection (2) of this section. The member receiving such abatement or deferment shall remain liable to the pool for the deficiency.

(4) If assessments exceed actual losses and administrative expenses of the pool, the excess shall be held at interest and used by the board to offset future losses or to reduce pool premiums. As used in this subsection, "future losses" includes reserves for incurred but not reported claims.

Passed by the House April 18, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 406

[Engrossed Substitute House Bill 1696]

FISH AND WILDLIFE—PENALTIES

AN ACT Relating to enhanced fish and wildlife penalties; amending RCW 77.15.070, 77.15.370, 77.15.410, 77.15.420, and 77.15.450; adding a new section to chapter 77.15 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 77.15 RCW to read as follows:

The fish and wildlife enforcement reward account is created in the custody of the state treasurer. All receipts from criminal wildlife penalty assessments

under RCW 77.15.420 must be deposited into the account. 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, 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.

Sec. 2. RCW 77.15.070 and 2000 c 107 s 231 are each amended to read as follows:

(1) Fish and wildlife officers and ex officio fish and wildlife officers may seize without warrant boats, airplanes, vehicles, motorized implements, conveyances, gear, appliances, or other articles they have probable cause to believe have been held with intent to violate or used in violation of this title or rule of the commission or director. However, fish and wildlife officers or ex officio fish and wildlife officers may not seize any item or article, other than for evidence, if under the circumstances, it is reasonable to conclude that the violation was inadvertent. The property seized is subject to forfeiture to the state under this section regardless of ownership. Property seized may be recovered by its owner by depositing with the department or into court a cash bond or equivalent security equal to the value of the seized property but not more than ~~((twenty-five))~~ one hundred thousand dollars. Such cash bond or security is subject to forfeiture in lieu of the property. Forfeiture of property seized under this section is a civil forfeiture against property and is intended to be a remedial civil sanction.

(2) In the event of a seizure of property under this section, jurisdiction to begin the forfeiture proceedings shall commence upon seizure. Within fifteen days following the seizure, the seizing authority shall serve a written notice of intent to forfeit property on the owner of the property seized and on any person having any known right or interest in the property seized. Notice may be served by any method authorized by law or court rule, including service by certified mail with return receipt requested. Service by mail is deemed complete upon mailing within the fifteen-day period following the seizure.

(3) Persons claiming a right of ownership or right to possession of property are entitled to a hearing to contest forfeiture. Such a claim shall specify the claim of ownership or possession and shall be made in writing and served on the director within forty-five days of the seizure. If the seizing authority has complied with notice requirements and there is no claim made within forty-five days, then the property shall be forfeited to the state.

(4) If any person timely serves the director with a claim to property, the person shall be afforded an opportunity to be heard as to the person's claim or right. The hearing shall be before the director or director's designee, or before an administrative law judge appointed under chapter 34.12 RCW, except that a person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the property seized is more than five

thousand dollars. The department may settle a person's claim of ownership prior to the administrative hearing.

(5) The hearing to contest forfeiture and any subsequent appeal shall be as provided for in chapter 34.05 RCW, the administrative procedure act. The seizing authority has the burden to demonstrate that it had reason to believe the property was held with intent to violate or was used in violation of this title or rule of the commission or director. The person contesting forfeiture has the burden of production and proof by a preponderance of evidence that the person owns or has a right to possess the property and:

(a) That the property was not held with intent to violate or used in violation of this title; or

(b) If the property is a boat, airplane, or vehicle, that the illegal use or planned illegal use of the boat, airplane, or vehicle occurred without the owner's knowledge or consent, and that the owner acted reasonably to prevent illegal uses of such boat, airplane, or vehicle.

(6) A forfeiture of a conveyance encumbered by a perfected security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission. No security interest in seized property may be perfected after seizure.

(7) If seized property is forfeited under this section the department may retain it for official use unless the property is required to be destroyed, or upon application by any law enforcement agency of the state, release such property to the agency for the use of enforcing this title, or sell such property, and deposit the proceeds to the ~~((wildlife fund, as provided for in RCW 77.12.170))~~ fish and wildlife enforcement reward account created in section 1 of this act.

Sec. 3. RCW 77.15.370 and 2001 c 253 s 38 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, possesses, or retains 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, possessed, or retained for noncommercial use;

(b) The person fishes in a fishway; ~~((or))~~

(c) The person shoots, gaffs, snags, snares, spears, dipnets, or stonks fish or shellfish in state waters, or possesses fish or shellfish taken by such means, unless such means are authorized by express rule of the commission or director; or

(d) The person fishes for or possesses a fish listed as threatened or endangered in 50 C.F.R. Sec. 17.11 (2002), unless fishing for or possession of such fish is specifically allowed under federal or state law.

(2) Unlawful recreational fishing in the first degree is a gross misdemeanor.

Sec. 4. RCW 77.15.410 and 1999 c 258 s 3 are each amended to read as follows:

(1) A person is guilty of unlawful hunting of big game in the second degree if the person:

(a) Hunts for, takes, or possesses big game and the person does not have and possess all licenses, tags, or permits required under this title;

(b) Violates any rule of the commission or director regarding seasons, bag or possession limits, closed areas including game reserves, closed times, or any other rule governing the hunting, taking, or possession of big game; or

(c) Possesses big game taken during a closed season for that big game or taken from a closed area for that big game.

(2) A person is guilty of unlawful hunting of big game in the first degree if the person was previously convicted of any crime under this title involving unlawful hunting, killing, possessing, or taking big game, and within five years of the date that the prior conviction was entered the person:

(a) Hunts for big game and does not have and possess all licenses, tags, or permits required under this title;

(b) Acts in violation of any rule of the commission or director regarding seasons, bag or possession limits, closed areas including game reserves, or closed times; or

(c) Possesses big game taken during a closed season for that big game or taken from a closed area for that big game.

(3)(a) Unlawful hunting of big game in the second degree is a gross misdemeanor. Upon conviction of an offense involving killing or possession of big game taken during a period of time when hunting for the particular species is not permitted, or in excess of the bag or possession limit, the department shall revoke all hunting licenses and tags and order a suspension of hunting privileges for two years.

(b) Unlawful hunting of big game in the first degree is a class C felony. Upon conviction, the department shall revoke all hunting licenses or tags (~~involved in the crime~~) and the department shall order the person's hunting privileges suspended for (~~two~~) ten years.

Sec. 5. RCW 77.15.420 and 1998 c 190 s 62 are each amended to read as follows:

(1) If a person 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 killed 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 (~~public safety and education~~) fish and wildlife enforcement reward account created in section 1 of this act.

(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) No forfeiture of bail may be less than the amount of the bail established for hunting during closed season plus the amount of the criminal wildlife penalty assessment in subsection (1) of this section.

(3) For the purpose of this section a "trophy animal" is:

(a) A buck deer with four or more antler points on both sides, not including eyeguards;

(b) A bull elk with five or more antler points on both sides, not including eyeguards; or

(c) A mountain sheep with a horn curl of three-quarter curl or greater.

For purposes of this subsection, "eyeguard" means an antler protrusion on the main beam of the antler closest to the eye of the animal.

(4) 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 separately.

(5) 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.

(6) 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.

(7) 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.

(8) 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 person killed 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 a person kills the animal under the supervision of a licensed guide.

Sec. 6. RCW 77.15.450 and 1998 c 190 s 27 are each amended to read as follows:

(1) A person is guilty of spotlighting big game in the second degree if the person hunts big game with the aid of a spotlight ((~~or~~), other artificial light, or night vision equipment while in possession or control of a firearm, bow and arrow, or cross bow. For purposes of this section, "night vision equipment" includes electronic light amplification devices, thermal imaging devices, and other comparable equipment used to enhance night vision.

(2) A person is guilty of spotlighting big game in the first degree if:

(a) The person has any prior conviction for gross misdemeanor or felony for a crime under this title involving big game including but not limited to subsection (1) of this section or RCW 77.15.410; and

(b) Within ten years of the date that such prior conviction was entered the person commits the act described by subsection (1) of this section.

(3)(a) Spotlighting big game in the second degree is a gross misdemeanor. Upon conviction, the department shall revoke all hunting licenses and tags and order a suspension of the person's hunting privileges for two years.

(b) Spotlighting big game in the first degree is a class C felony. Upon conviction, the department shall order suspension of all privileges to hunt wildlife for a period of ~~((two))~~ ten years.

(4) A person convicted under this section shall be assessed a criminal wildlife penalty assessment as provided in RCW 77.15.420.

Passed by the House April 18, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 407

[Substitute House Bill 1798]

MOTORIST INFORMATION SIGNS

AN ACT Relating to motorist information sign panels; amending RCW 47.36.310; reenacting and amending RCW 47.36.320; adding a new section to chapter 47.36 RCW; creating a new section; and repealing RCW 47.36.325.

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

Sec. 1. RCW 47.36.310 and 1999 c 201 s 3 are each amended to read as follows:

The department is authorized to erect and maintain motorist information sign panels within the right of way of the interstate highway system to give the traveling public specific information as to gas, food, lodging, camping, or tourist-oriented business available on a crossroad at or near an interchange. Motorist information sign panels shall include the words "GAS," "FOOD," "LODGING," "CAMPING," or "TOURIST ACTIVITIES" and the letters "RV" next to a gas, food, lodging, camping, or tourist activity sign if the business or destination accommodates recreational vehicles, and directional information ~~((and))~~. Directional information may contain one or more individual business signs maintained on the panel. The "RV" logo for businesses or destinations that accommodate recreational vehicles shall be placed in the lower right corner of the gas, food, lodging, camping, or tourist activity sign and shall be in the form of a small yellow circle with the letters "RV" in black. In managing the number of individual business signs to be displayed, the department must ensure the use of available space on a panel is maximized. Motorist information sign panels are authorized within the corporate limits of cities and towns and areas zoned for commercial or industrial uses at locations where there is adequate distance between interchanges to ensure compliance with the Manual on Uniform Traffic Control Devices. The erection and maintenance of motorist information sign panels shall also conform to the Manual on Uniform Traffic Control Devices and rules adopted by the state department of transportation. A motorist service or

tourist-oriented business located within one mile of an interstate highway shall not be permitted to display its name, brand, or trademark on a motorist information sign panel unless its owner has first entered into an agreement with the department limiting the height of its on-premise signs at the site of its service installation to not more than fifteen feet higher than the roof of its main building measured to the bottom of the on-premise sign. The restriction for on-premise signs does not apply if the sign is not visible from the highway. The department may, on a case-by-case basis, waive the height restriction when an on-premise sign is visible from the rural interstate system. The department shall charge ~~((reasonable))~~ sufficient fees for the display of individual business signs to ~~((defray))~~ recover the costs of their installation and maintenance, and ~~((may))~~ shall charge ~~((reasonable))~~ sufficient fees to recover costs for the erection and maintenance of the motorist information sign panels.

Sec. 2. RCW 47.36.320 and 1999 c 213 s 1 and 1999 c 201 s 4 are each reenacted and amended to read as follows:

The department is authorized to erect and maintain motorist information sign panels within the right of way of noninterstate highways to give the traveling public specific information as to gas, food, lodging, recreation, or tourist-oriented businesses accessible by way of highways intersecting the noninterstate highway. The motorist information sign panels are permitted only at locations within the corporate limits of cities and towns and areas zoned for commercial or industrial uses where there is adequate distance between interchanges to ensure compliance with the Manual on Uniform Traffic Control Devices. Motorist information sign panels shall include the words "GAS," "FOOD," "LODGING," "RECREATION," or "TOURIST ACTIVITIES" and the letters "RV" next to a gas, food, lodging, camping, or tourist activity sign if the business or destination accommodates recreational vehicles, and directional information ~~((and))~~. Directional information may contain one or more individual business signs maintained on the panel. The "RV" logo for businesses or destinations that accommodate recreational vehicles shall be placed in the lower right corner of the gas, food, lodging, camping, or tourist activity sign and shall be in the form of a small yellow circle with the letters "RV" in black. In managing the number of individual business signs to be displayed, the department must ensure the use of available space on a panel is maximized. The erection and maintenance of motorist information sign panels along noninterstate highways shall also conform to the Manual on Uniform Traffic Control Devices and rules adopted by the state department of transportation. A motorist service or tourist-oriented business located within one mile of a noninterstate highway shall not be permitted to display its name, brand, or trademark on a motorist information sign panel unless its owner has first entered into an agreement with the department limiting the height of its on-premise signs at the site of its service installation to not more than fifteen feet higher than the roof of its main building measured to the bottom of the on-premise sign.

The department shall adopt rules for the erection and maintenance of tourist-oriented directional signs with the following restrictions:

(1) Where installed, they shall be placed in advance of the "GAS," "FOOD," "LODGING," ~~((or))~~ "RECREATION," or "RV" motorist information sign panels previously described in this section;

(2) Signs shall not be placed to direct a motorist to an activity visible from the main traveled roadway;

(3) Premises on which the qualified tourist-oriented business is located must be within fifteen miles of the state highway except as provided in RCW 47.36.330(3) (b) and (c), and necessary supplemental signing on local roads must be provided before the installation of the signs on the state highway.

The department shall charge ~~((reasonable))~~ sufficient fees for the display of individual business signs to ~~((defray))~~ recover the costs of their installation and maintenance, and ~~((may))~~ shall charge ~~((reasonable))~~ sufficient fees to recover the costs for the erection and maintenance of the motorist information sign panels.

NEW SECTION. Sec. 3. A new section is added to chapter 47.36 RCW to read as follows:

(1) The department of transportation shall not include the logo "RV" under RCW 47.36.310 and 47.36.320 unless a business or destination requests an "RV" logo and the department determines that the gas, food, or lodging business or the camping or tourist activity destination provides parking spaces, overhang clearances, and entrances and exits designed to accommodate recreational or other large vehicles.

(2) The department may charge a reasonable fee in accordance with RCW 47.36.310 or 47.36.320 to defray the costs associated with the installation and maintenance of signs with "RV" logos.

(3) The department may adopt rules necessary to administer this section.

NEW SECTION. Sec. 4. The department of transportation shall submit an electronic report by December 15, 2005, to the house of representatives and senate transportation committees detailing revenues and expenditures of the motorist information sign program. The report shall also include a detailed explanation of the methodology and calculation of costs charged to businesses using the program.

NEW SECTION. Sec. 5. RCW 47.36.325 (Motorist information signs—Private contractors) and 2002 c 321 s 1 are each repealed.

Passed by the House April 18, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 408

[Engrossed Substitute House Bill 1799]

PUBLIC RECREATIONAL LANDS AND PUBLIC SAFETY—TASK FORCE

AN ACT Relating to park rangers employed by the state parks and recreation commission; 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 finds that law enforcement functions at state parks and lands are insufficient to adequately protect the public and our natural resources. Threats to the safety of the visiting public and public lands are not necessarily confined to the boundaries of state parks***

and lands. State law does not expressly grant or deny park rangers the authority to engage in law enforcement activities outside of park and land boundaries. Further, the legislature finds that, in many areas of the state, other state or local law enforcement officers are either too far away or understaffed to provide adequate support to on-site law enforcement professionals in emergency situations. The legislature finds that a comprehensive review of the role and responsibilities of law enforcement professionals within and around state parks and lands is necessary to ensure the value of state parks and natural resources is not diminished.

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

NEW SECTION. Sec. 2. (1) The task force on state public recreational lands and public safety is created. The task force shall be comprised of twelve members appointed as follows:

(a) Two members of the house of representatives, one from each major caucus, to be appointed by the speaker of the house of representatives;

(b) Two members of the senate, one from each major caucus, to be appointed by the president of the senate;

(c) The commissioner of public lands or his or her designee;

(d) The chair of the Washington state parks and recreation commission or his or her designee;

(e) The chair of the Washington fish and wildlife commission or his or her designee;

(f) Five members, to be appointed jointly by the speaker of the house of representatives and the president of the senate, from nominations submitted by the following organizations:

(i) One representative of the Washington association of sheriffs and police chiefs;

(ii) One representative of the Washington state council of police and sheriffs;

(iii) One representative of the Washington association of prosecuting attorneys;

(iv) One representative park ranger who is an active member of the recognized employee bargaining unit and who is employed by the Washington state parks and recreation commission; and

(v) One recognized employee representative of enforcement officers with the department of natural resources.

(2) The task force members shall elect a chair and determine its operating procedures. The task force shall be jointly staffed by the office of program research and senate committee services as determined by their respective staff directors.

(a) Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(b) The compensable travel expenses as provided in (a) of this subsection shall be paid jointly by the senate and the house of representatives.

(3) This section expires January 1, 2006.

NEW SECTION. Sec. 3. The task force shall conduct a comprehensive review of law enforcement issues in and around state parks and lands, including but not limited to:

- (1) The extent to which illegal activity in and around state parks and lands threatens public safety and natural resources; and
- (2) The ability of the current state and local law enforcement to respond to illegal activity on or near public recreational lands.

NEW SECTION. Sec. 4. By December 15, 2005, the task force shall provide a final report of its recommendations, including any draft legislation to implement the recommendations. The report shall be submitted to the chief clerk of the house of representatives and the secretary of the senate.

Passed by the House April 19, 2005.

Passed by the Senate April 8, 2005.

Approved by the Governor May 11, 2005, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 11, 2005.

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

"I am returning, without my approval as to Section 1, Engrossed Substitute House Bill No. 1799 entitled:

"AN ACT Relating to park rangers employed by the state parks and recreation commission."

Section 1 of Engrossed Substitute House Bill No. 1799 states the Legislature's finding that "law enforcement functions at state parks and lands are insufficient to adequately protect the public and our natural resources." I agree that the safety of people, property, and natural resources on our public lands is important, and that more can be done to improve safety. But I have high regard for our park rangers and others who enforce the laws and protect our public lands, and do not believe the Legislature's conclusion is warranted. I am also concerned such language, while not so intended, could be misused to increase taxpayers' liability for harm that should be the responsibility of those who violate our laws.

For these reasons, I have vetoed Section 1 of Engrossed Substitute House Bill No. 1799.

With the exception of Section 1, Engrossed Substitute House Bill No. 1799 is approved."

CHAPTER 409

[Substitute House Bill 1847]

STATUTE LAW COMMITTEE

AN ACT Relating to the statute law committee; amending RCW 1.08.001, 1.08.003, 1.08.007, and 1.08.011; and declaring an emergency.

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

Sec. 1. RCW 1.08.001 and 1967 ex.s. c 124 s 1 are each amended to read as follows:

There is created a permanent statute law committee consisting of ~~((twelve lawyer))~~ eleven members as follows: ~~((A lawyer member of the legislature, ex officio, designated by the speaker of the house of representatives with the concurrence of the president of the senate; the chairman of the senate judiciary committee, ex officio, or a member thereof who belongs to the same political party as the chairman, and one other member thereof who belongs to the other major political party, to be appointed by the chairman; the chairman of the house~~

~~judiciary committee, ex officio, or a member thereof who belongs to the same political party as the chairman, and one other member thereof who belongs to the other major political party, to be appointed by the chairman; five lawyers))~~

(1) The secretary of the senate, ex officio;

(2) Two members of the senate, one from each of the two largest caucuses in the senate, appointed by the president of the senate;

(3) The chief clerk of the house of representatives, ex officio;

(4) Two members of the house of representatives, one from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house of representatives;

(5) The staff director of the nonpartisan professional committee staff of the senate, ex officio;

(6) The staff director of the nonpartisan professional committee staff of the house of representatives, ex officio;

(7) A lawyer admitted to practice in this state, ~~((designated))~~ appointed by the board of governors of the Washington State Bar Association;

(8) A judge of the supreme court or a lawyer who has been admitted to practice in this state, ((recommended)) appointed by the chief justice of the supreme court; and

(9) A lawyer staff member ((at large)) of the governor's office or a state agency, appointed by the governor.

All such ~~((designations or))~~ initial appointments~~((s))~~ shall ~~((except as provided in RCW 1.08.003;))~~ be made ~~((as above provided prior to April 1, 1959))~~ within thirty days of the effective date of this act.

Sec. 2. RCW 1.08.003 and 1959 c 95 s 2 are each amended to read as follows:

The term~~((s))~~ of the member~~((s designated))~~ of the committee appointed by the State Bar Association, shall be for ~~((six))~~ two years. ~~((The term of the member recommended by the chief justice shall be at the pleasure of the supreme court. The term of the governor's appointee shall be four years. The term of the senate and house judiciary committee members shall be two years, from April 1st following the adjournment of the regular session of the legislature in each odd-numbered year starting in 1955 and to and including the thirty-first day of March in the succeeding odd-numbered year.))~~

The term of any ex officio member~~((, other than senate and house judiciary committee members shall))~~ expires upon expiration of tenure of the position by virtue of which he or she is a member of the committee. The remaining members of the committee shall serve at the pleasure of the appointing authority. Vacancies shall be filled by designation, appointment, or ex officio in the same manner as for the member so vacating, and if a vacancy results other than from expiration of a term, the vacancy shall be filled for the unexpired term.

~~((Of the members to be designated by the Washington State Bar Association, the term of one member shall expire March 31, 1959, the terms of two members shall expire March 31, 1961, the terms of two members shall expire March 31, 1963, and the term of one member shall expire March 31, 1965: PROVIDED, That this 1959 amendment shall not affect the present terms of present members.))~~

Sec. 3. RCW 1.08.007 and 1953 c 257 s 3 are each amended to read as follows:

~~((The committee shall meet at the call of the senate judiciary chairman as soon as feasible after April 1, 1953.))~~ The committee shall from time to time elect a chairman from among its members~~((;))~~ and adopt rules to govern its procedures. Four members of the committee shall constitute a quorum for the transaction of any business but no proceeding of the committee shall be valid unless carried by the vote of a majority of the members present. The code reviser or a member of his or her staff shall act as secretary of the committee.

Sec. 4. RCW 1.08.011 and 1951 c 157 s 5 are each amended to read as follows:

The committee shall~~((, as soon as practicable after April 1, 1951,))~~ employ on behalf of the state~~((;))~~ and from time to time fix the compensation of a competent code reviser, with power to terminate any such employment at any time~~((, subject to contract rights))~~. The committee shall also employ on behalf of the state and fix the compensation of such additional legal and clerical assistance to the code reviser as may reasonably be required under this chapter. The committee shall have general supervision and control over the functions and performance of the code reviser.

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

Passed by the House April 18, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 410

[Engrossed House Bill 1917]

INDUSTRIAL INSURANCE—PREMIUM RATES

AN ACT Relating to improving stability in industrial insurance premium rates; amending RCW 51.16.035; and creating a new section.

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

Sec. 1. RCW 51.16.035 and 1999 c 7 s 8 are each amended to read as follows:

(1) The department shall classify all occupations or industries in accordance with their degree of hazard and fix therefor basic rates of premium which shall be:

(a) The lowest necessary to maintain actuarial solvency of the accident and medical aid funds in accordance with recognized insurance principles; and

(b) Designed to attempt to limit fluctuations in premium rates.

~~(2) The department shall formulate and adopt rules ((and regulations)) governing the method of premium calculation and collection and providing for a rating system consistent with recognized principles of workers' compensation insurance which shall be designed to stimulate and encourage accident prevention and to facilitate collection. The department may annually, or at such other times as it deems necessary to ((maintain solvency of the funds)) achieve~~

the objectives under this section, readjust rates in accordance with the rating system to become effective on such dates as the department may designate.

~~((2))~~ (3)(a) After the first report is issued by the state auditor under section 1, chapter ... (Substitute House Bill No. 1856 or Substitute Senate Bill No. 5614), Laws of 2005, the workers' compensation advisory committee shall review the report and, as the committee deems appropriate, may make recommendations to the department concerning:

(i) The level or levels of a contingency reserve that are appropriate to maintain actuarial solvency of the accident and medical aid funds, limit premium rate fluctuations, and account for economic conditions; and

(ii) When surplus funds exist in the trust funds, the circumstances under which the department should give premium dividends, or similar measures, or temporarily reduce rates below the rates fixed under subsection (1) of this section, including any recommendations regarding notifications that should be given before taking the action.

(b) Following subsequent reports issued by the state auditor under section 1, chapter ... (Substitute House Bill No. 1856 or Substitute Senate Bill No. 5614), Laws of 2005, the workers' compensation advisory committee may, as it deems appropriate, update its recommendations to the department on the matters covered under (a) of this subsection.

(4) In providing a retrospective rating plan under RCW 51.18.010, the department may consider each individual retrospective rating group as a single employing entity for purposes of dividends or premium discounts.

NEW SECTION. Sec. 2. Section 1 of this act applies to industrial insurance rates adopted by the department of labor and industries that take effect on or after January 1, 2008.

Passed by the House March 14, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 411

[Engrossed House Bill 2185]

INDUSTRIAL INSURANCE—RESIDENCE MODIFICATIONS

AN ACT Relating to residence modifications for injured workers; and adding a new section to chapter 51.36 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 51.36 RCW to read as follows:

(1) The legislature finds that there is a need to clarify the process and standards under which the department provides residence modification assistance to workers who have sustained catastrophic injury.

(2) The director shall adopt rules that take effect no later than nine months after the effective date of this section to establish guidelines and processes for residence modification pursuant to RCW 51.36.020(7).

(3) In developing rules under this section, the director shall consult with interested persons, including persons with expertise in the rehabilitation of catastrophically disabled individuals and modifications for adaptive housing.

(4) These rules must address at least the following:

(a) The process for a catastrophically injured worker to access the residence modification benefits provided by RCW 51.36.020; and

(b) How the department may address the needs and preferences of the individual worker on a case-by-case basis taking into account information provided by the injured worker. For purposes of determining the needs and requirements of the worker under RCW 51.36.020, including whether a modification is medically necessary, the department must consider all available information regarding the medical condition and physical restrictions of the injured worker, including the opinion of the worker's attending health services provider.

(5) The rules should be based upon nationally accepted guidelines and publications addressing adaptive residential housing. The department must consider the guidelines established by the United States department of veterans affairs in their publication entitled "Handbook for Design: Specially Adapted Housing," and the recommendations published in "The Accessible Housing Design File" by Barrier Free Environments, Inc.

(6) In developing rules under this section, the director shall consult with other persons with an interest in improving standards for adaptive housing.

(7) The director shall report by December 2007 to the appropriate committees of the legislature on the rules adopted under this section.

Passed by the House April 19, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 412

[Engrossed Substitute House Bill 2309]

WATER RIGHTS—FEES

AN ACT Relating to water right fees; amending RCW 90.03.470; adding a new section to chapter 90.14 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that the fees associated with various actions of the department of ecology relating to the processing and administration of water rights are outdated and are insufficient even to recover the cost of handling the funds submitted. The legislature also finds that water right processing fees are currently collected at three different stages of the water rights process and that reducing the number of instances of fee collection to two stages of the process would increase efficiency and reduce administrative costs. The legislature further finds that several current statutory fees are archaic or are otherwise covered by other general statutes, including the state's public disclosure laws. The legislature therefore intends to update and modernize the fee schedule associated with water right-related actions of the department of ecology.

Sec. 2. RCW 90.03.470 and 1993 c 495 s 2 are each amended to read as follows:

~~((Except as otherwise provided in subsection (15) of this section,)) The ((following)) fees specified in this section shall be collected by the department in advance~~((s))~~ of the requested action.~~

(1) For the examination of an application for a permit to appropriate water ~~((or on application to change point of diversion, withdrawal, purpose or place of use)),~~ a minimum fee of ~~((ten))~~ fifty dollars~~((, to be paid))~~ must be remitted with the application. For ~~((each second foot between one and five hundred second feet, two dollars per second foot; for each second foot between five hundred and two thousand second feet, fifty cents per second foot; and for each second foot in excess thereof, twenty cents per second foot))~~ an amount of water exceeding one-half cubic foot per second, the examination fee shall be assessed at the rate of one dollar per one hundredth cubic foot per second. In no case will the examination fee be less than fifty dollars or more than twenty-five thousand dollars. No fee is required under this subsection (1) for an application filed by a party to a cost reimbursement agreement made under RCW 90.03.265.

(2) For the examination of an application to store water, a fee of two dollars for each acre foot of storage ~~((up to and including one hundred thousand acre feet, one cent per acre foot, and for each acre foot in excess thereof, one fifth cent per acre foot))~~ proposed shall be charged, but a minimum fee of fifty dollars must be remitted with the application. In no case will the examination fee for a storage project be less than fifty dollars or more than twenty-five thousand dollars. No fee is required under this subsection (2) for an application filed by a party to a cost reimbursement agreement made under RCW 90.03.265.

(3)(a) For the examination of an application to transfer, change, or amend a water right certificate, permit, or claim as authorized by RCW 90.44.100, 90.44.105, or 90.03.380, a minimum fee of fifty dollars must be remitted with the application. For an application for change involving an amount of water exceeding one cubic foot per second, the total examination fee shall be assessed at the rate of fifty cents per one hundredth cubic foot per second. For an application for change of a storage water right, the total examination fee shall be assessed at the rate of one dollar for each acre foot of water involved in the change. The fee shall be based on the amount of water subject to change as proposed in the application, not on the total amount of water reflected in the water right certificate, permit, or claim. In no case will the examination fee charged for a change application be less than fifty dollars or more than twelve thousand five hundred dollars.

(b) The examination fee for a temporary or seasonal change under RCW 90.03.390 is fifty dollars and must be remitted with the application.

(c) No fee is required under this subsection (3) for:

(i) An application to process a change relating to donation of a trust water right to the state;

(ii) An application to process a change when the department otherwise acquires a trust water right for purposes of improving instream flows or for other public purposes;

(iii) An application filed with a water conservancy board according to chapter 90.80 RCW or for the review of a water conservancy board's record of decision submitted to the department according to chapter 90.80 RCW; or

(iv) An application filed by a party to a cost reimbursement agreement made under RCW 90.03.265.

(d) For a change, transfer, or amendment involving a single project operating under more than one water right, including related secondary diversion rights, or involving the consolidation of multiple water rights, only one examination fee and one certificate fee are required to be paid.

(4) The ~~((ten))~~ fifty-dollar minimum fee payable with the application shall be a credit to ~~((that))~~ the total amount whenever the examination fee ~~((for direct diversion or storage))~~ totals more than ~~((ten))~~ fifty dollars under the ~~((above schedule))~~ schedule specified in subsections (1) through (3) of this section and in such case the further fee due shall be the total computed amount, less ~~((ten dollars))~~ the amount previously paid. Within five working days from receipt of an application, the department shall notify the applicant by registered mail of any additional fees due under ~~((the above schedule and any additional fees shall be paid to and received by the department within thirty days from the date of filing the application, or the application shall be rejected))~~ subsections (1) through (3) of this section.

~~((2) For filing and recording a permit to appropriate water for irrigation purposes, forty cents per acre for each acre to be irrigated up to and including one hundred acres, and twenty cents per acre for each acre in excess of one hundred acres up to and including one thousand acres, and ten cents for each acre in excess of one thousand acres; and also twenty cents for each theoretical horsepower up to and including one thousand horsepower, and four cents for each theoretical horsepower in excess of one thousand horsepower, but in no instance shall the minimum fee for filing and recording a permit to appropriate water be less than five dollars. For all other beneficial purposes the fee shall be twice the amount of the examination fee except that for individual household and domestic use, which may include water for irrigation of a family garden, the fee shall be five dollars.~~

~~((3) For filing and recording any other water right instrument, four dollars for the first hundred words and forty cents for each additional hundred words or fraction thereof.~~

~~((4) For making a copy of any document recorded or filed in his office, forty cents for each hundred words or fraction thereof, but when the amount exceeds twenty dollars, only the actual cost in excess of that amount shall be charged.~~

~~((5) For certifying to copies, documents, records or maps, two dollars for each certification.~~

~~((6) For blueprint copies of a map or drawing, or, for such other work of a similar nature as may be required of the department, at actual cost of the work.~~

(7)) (5) The fees specified in subsections (1) through (3) of this section do not apply to any filings for emergency withdrawal authorizations or temporary drought-related water right changes authorized under RCW 43.83B.410 that are received by the department while a drought condition order issued under RCW 43.83B.405 is in effect.

(6) For ~~((granting))~~ applying for each extension of time for beginning construction work under a permit to appropriate water, ~~((an amount equal to one-half of the filing and recording fee, except that the minimum fee shall be not less than five dollars for each year that an extension is granted, and for granting an extension of time))~~ for completion of construction work, or for completing

application of water to a beneficial use, ~~((five dollars for each year that an extension is granted))~~ a fee of fifty dollars is required. These fees also apply to similar extensions of time requested under a change or transfer authorization.

~~((8))~~ (7) For the inspection of any hydraulic works to insure safety to life and property, a fee based on the actual cost of the inspection, including the expense incident thereto, is required except as follows: (a) For any hydraulic works less than ten years old, that the department examined and approved the construction plans and specifications as to its safety when required under RCW 90.03.350, there shall be no fee charged; or (b) for any hydraulic works more than ten years old, but less than twenty years old, that the department examined and approved the construction plans and specifications as to its safety when required under RCW 90.03.350, the fee charged shall not exceed the fee for a significant hazard dam.

~~((9))~~ (8) For the examination of plans and specifications as to safety of controlling works for storage of ten acre feet or more of water, a minimum fee of ten dollars, or a fee equal to the actual cost, is required.

~~((10))~~ (9) For recording an assignment either of a permit to appropriate water or of an application for such a permit, a fee of ~~((five))~~ fifty dollars is required.

~~((11))~~ (10) For preparing and issuing all water right certificates, ~~((five))~~ a fee of fifty dollars is required.

~~((12))~~ (11) For filing and recording a formal protest against granting any application, ~~((two))~~ a fee of fifty dollars is required. No fee is required to submit a comment, by mail or otherwise, regarding an application.

~~((13))~~ (12) For filing an application to amend a water right claim filed under chapter 90.14 RCW, a fee of fifty dollars is required.

(13) An application or request for an action as provided for under this section is incomplete unless accompanied by the fee or the minimum fee. If no fee or an amount less than the minimum fee accompanies an application or other request for an action as provided under this section, the department shall return the application or request to the applicant with advice as to the fee that must be remitted with the application or request for it to be accepted for processing. If additional fees are due, the department shall provide timely notification by certified mail with return receipt requested to ~~((applicants that fees are due))~~ the applicant. No action may be taken by the department until the fee is paid in full. Failure to remit fees within sixty days of the department's notification ~~((shall be))~~ is grounds for rejecting the application or request or canceling the permit. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable.

(14) For purposes of calculating fees for ground water filings, one cubic foot per second shall be regarded as equivalent to four hundred fifty gallons per minute.

(15) ~~((For the period beginning July 1, 1993, and ending June 30, 1994, there is imposed and the department shall collect a one hundred dollar surcharge on all water rights applications or changes filed under this section, and upon all water rights applications or changes pending as of July 1, 1993. This charge shall be in addition to any other fees imposed under this section.))~~ Eighty percent of the fees collected by the department under this section shall be deposited in the state general fund. Twenty percent of the fees collected by the department

under this section shall be deposited in the water rights tracking system account established in section 3 of this act.

(16) Except for the fees relating to the inspection of hydraulic works and the examination of plans and specifications of controlling works provided for in subsections (7) and (8) of this section, nothing in this section is intended to grant authority to the department to amend the fees in this section by adoption of rules or otherwise.

NEW SECTION. Sec. 3. A new section is added to chapter 90.14 RCW to read as follows:

The water rights tracking system account is created in the state treasury. Twenty percent of the fees collected by the department of ecology according to RCW 90.03.470 must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department of ecology for the development, implementation, and management of a water rights tracking system, including a water rights mapping system and a water rights data base.

Passed by the House April 23, 2005.

Passed by the Senate April 23, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 413

[Substitute Senate Bill 5038]

RULES OF THE ROAD—STATIONARY EMERGENCY VEHICLES

AN ACT Relating to the duty to yield to emergency and police vehicles; amending RCW 46.63.110; adding a new section to chapter 46.61 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.61 RCW to read as follows:

The driver of any motor vehicle, upon approaching a stationary authorized emergency vehicle that is making use of audible and/or visual signals meeting the requirements of RCW 46.37.190 or of a police vehicle properly and lawfully displaying a flashing, blinking, or alternating emergency light or lights, shall:

(1) On a highway having at least four lanes, at least two of which are intended for traffic proceeding in the same direction as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right of way by making a lane change or moving away from the lane or shoulder occupied by the stationary authorized emergency vehicle or police vehicle; or

(2) If changing lanes or moving away would be unreasonable or unsafe, proceed with due caution and reduce the speed of the vehicle.

Sec. 2. RCW 46.63.110 and 2003 c 380 s 2 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department shall suspend the person's driver's license or driving privilege until the penalty has been paid and the penalty provided in subsection (4) of this section has been paid.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed a fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62,

10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited as provided in RCW 43.08.250. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

Passed by the Senate April 18, 2005.

Passed by the House April 6, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 414

[Senate Bill 5039]

MILK OR MILK PRODUCTS

AN ACT Relating to milk and milk products; amending RCW 15.36.051, 15.36.231, 15.36.241, and 15.36.491; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 15.36.051 and 1999 c 291 s 4 are each amended to read as follows:

A milk processing plant must obtain an annual milk processing plant license from the department, which shall expire on June 30 of each year. A milk processing plant may choose to process (1) grade A milk and milk products, or (2) other milk products that are not classified grade A.

Only one license may be required to process milk; however, milk processing plants must obtain the necessary endorsements from the department in order to process products as defined for each type of milk or milk product processing. Application for a license shall be on a form prescribed by the director and accompanied by a (~~twenty-five~~) fifty-five dollar annual license fee. The applicant shall include on the application the full name of the applicant for the license and the location of the milk processing plant he or she intends to operate and any other necessary information. Upon the approval of the application by the director and compliance with the provisions of this chapter, including the applicable rules adopted under this chapter by the department, the applicant shall be issued a license or a renewal of a license.

Licenses shall be issued to cover only those products, processes, and operations specified in the license application and approved for licensing. If a license holder wishes to engage in processing a type of milk product that is different than the type specified on the application supporting the licensee's existing license and processing that type of food product would require a major addition to or modification of the licensee's processing facilities, the licensee shall submit an amendment to the current license application. In such a case, the licensee may engage in processing the new type of milk product only after the amendment has been approved by the department.

A licensee under this section shall not be required to obtain a food processing plant license under chapter 69.07 RCW to process milk or milk products.

The director shall waive the fee for a food processing license under chapter 69.07 RCW for persons who are also licensed as a milk processing plant.

Sec. 2. RCW 15.36.231 and 1999 c 291 s 14 are each amended to read as follows:

(1) Milk and milk products for consumption in the raw state shall be bottled or packaged on the farm where produced. Bottling and capping shall be done in a sanitary manner by means of approved equipment and ~~((these))~~ operations ~~((shall be integral in one machine))~~. Caps or cap stock shall be purchased in sanitary containers and kept therein in a clean dry place until used.

(2) All containers enclosing raw milk or any raw milk product shall be plainly labeled or marked with the word "raw" and the name of the producer or packager. The label or mark shall be in letters of a size, kind, and color approved by the director and shall contain no marks or words which are misleading.

Sec. 3. RCW 15.36.241 and 1961 c 11 s 15.36.420 are each amended to read as follows:

Capping of milk or milk products shall be done ~~((by))~~ in a sanitary manner by means of approved ~~((mechanical))~~ equipment and operations. ~~((Hand eapping is prohibited.))~~

Sec. 4. RCW 15.36.491 and 1999 c 291 s 23 are each amended to read as follows:

All moneys received for licenses under this chapter shall be deposited in the general fund, except that all moneys received for annual milk processing plant licenses under RCW 15.36.051 shall be deposited in the agricultural local fund established under RCW 43.23.230.

NEW SECTION. **Sec. 5.** Sections 1 and 4 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2005.

Passed by the Senate April 19, 2005.

Passed by the House April 7, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 415

[Substitute Senate Bill 5085]

CHILD PASSENGER SAFETY

AN ACT Relating to child passenger restraint systems; and amending RCW 46.61.687.

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

Sec. 1. RCW 46.61.687 and 2003 c 353 s 5 are each amended to read as follows:

(1) Whenever a child who is less than sixteen years of age is being transported in a motor vehicle that is in operation and that is required by RCW 46.37.510 to be equipped with a safety belt system in a passenger seating position, or is being transported in a neighborhood electric vehicle that is in operation, the driver of the vehicle shall keep the child properly restrained as follows:

(a) If the child is less than six years old and/or sixty pounds and the passenger seating position equipped with a safety belt system allows sufficient space for installation, then the child will be restrained in a child restraint system that complies with standards of the United States department of transportation and that is secured in the vehicle in accordance with instructions of the manufacturer of the child restraint system;

(b) If the child is less than one year of age or weighs less than twenty pounds, the child shall be properly restrained in a rear-facing infant seat;

(c) If the child is more than one but less than four years of age or weighs less than forty pounds but at least twenty pounds, the child shall be properly restrained in a forward facing child safety seat restraint system;

(d) If the child is less than six but at least four years of age or weighs less than sixty pounds but at least forty pounds, the child shall be properly restrained in a child booster seat;

(e) If the child is six years of age or older or weighs more than sixty pounds, the child shall be properly restrained with the motor vehicle's safety belt properly adjusted and fastened around the child's body or an appropriately fitting booster seat; and

(f) Enforcement of (a) through (e) of this subsection is subject to a visual inspection by law enforcement to determine if the child restraint system in use is appropriate for the child's individual height, weight, and age. The visual inspection for usage of a forward facing child safety seat must ensure that the seat in use is equipped with a four-point shoulder harness system. The visual inspection for usage of a booster seat must ensure that the seat belt properly fits across the child's lap and the shoulder strap crosses the center of the child's chest. The visual inspection for the usage of a seat belt by a child must ensure that the lap belt properly fits across the child's lap and the shoulder strap crosses the center of the child's chest. In determining violations, consideration to the above criteria must be given in conjunction with the provisions of (a) through (e) of this subsection. The driver of a vehicle transporting a child who is under the age of six years old or weighs less than sixty pounds, when the vehicle is equipped with a passenger side air bag supplemental restraint system, and the air bag system is activated, shall transport the child in the back seat positions in the vehicle where it is practical to do so.

(2) A person violating subsection (1)(a) through (e) of this section may be issued a notice of traffic infraction under chapter 46.63 RCW. If the person to whom the notice was issued presents proof of acquisition of an approved child passenger restraint system or a child booster seat, as appropriate, within seven days to the jurisdiction issuing the notice and the person has not previously had a violation of this section dismissed, the jurisdiction shall dismiss the notice of traffic infraction.

(3) Failure to comply with the requirements of this section shall not constitute negligence by a parent or legal guardian; nor shall failure to use a child restraint system be admissible as evidence of negligence in any civil action.

(4) This section does not apply to: (a) For hire vehicles, (b) vehicles designed to transport sixteen or less passengers, including the driver, operated by auto transportation companies, as defined in RCW 81.68.010, (c) vehicles

providing customer shuttle service between parking, convention, and hotel facilities, and airport terminals, and (d) school buses.

(5) As used in this section "child booster seat" means a child passenger restraint system that meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213 that is designed to elevate a child to properly sit in a federally approved lap/shoulder belt system.

(6) The requirements of subsection (1)(a) through (e) of this section do not apply in any seating position where there is only a lap belt available and the child weighs more than forty pounds.

(7)(a) Except as provided in (b) of this subsection, a person who has a current national certification as a child passenger safety technician and who in good faith provides inspection, adjustment, or educational services regarding child passenger restraint systems is not liable for civil damages resulting from any act or omission in providing the services, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(b) The immunity provided in this subsection does not apply to a certified child passenger safety technician who is employed by a retailer of child passenger restraint systems and who, during his or her hours of employment and while being compensated, provides inspection, adjustment, or educational services regarding child passenger restraint systems.

Passed by the Senate April 16, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 416

[Substitute Senate Bill 5169]

BIOTOXIN TESTING AND MONITORING—FUNDS

AN ACT Relating to the carry over of funds for biotoxin testing and monitoring; amending RCW 77.32.555; and declaring an emergency.

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

Sec. 1. RCW 77.32.555 and 2004 c 248 s 2 are each amended to read as follows:

In addition to the fees authorized in this chapter, the department shall include a surcharge to fund biotoxin testing and monitoring by the department of health of beaches used for recreational shellfishing, and to fund monitoring by the Olympic region harmful algal bloom program of the Olympic natural resources center at the University of Washington. A surcharge of three dollars applies to resident and nonresident shellfish and seaweed licenses as authorized by RCW 77.32.520(3) (a) and (b); a surcharge of two dollars applies to resident and nonresident adult combination licenses as authorized by RCW 77.32.470(2)(a); a surcharge of two dollars applies to annual resident and nonresident razor clam licenses as authorized by RCW 77.32.520(4); and a surcharge of one dollar applies to the three-day razor clam license authorized by RCW 77.32.520(5). Amounts collected from these surcharges must be deposited in the general fund—local account managed by the department of

health, except that one hundred fifty thousand dollars per year shall be deposited in the general fund—local account managed by the University of Washington.

~~((Amounts in excess of the annual costs of the department of health recreational shellfish testing and monitoring program shall be transferred to the general fund by the department of health.))~~ Unspent amounts from the surcharges deposited in the general fund—local accounts managed by the department of health and the University of Washington shall carry over to ensuing biennia to pay for the ongoing costs of the programs. The department of health and the University of Washington shall, by December 1st of each year, provide a letter to the relevant legislative policy and fiscal committees on the status of expenditures. This letter shall include, but is not limited to, the annual appropriation amount, the amount not expended, account fund balance, and reasons for not spending the full annual appropriation.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 18, 2005.

Passed by the House April 5, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 417

[Engrossed Substitute Senate Bill 5308]

CHILD ABUSE—REPORTING

AN ACT Relating to mandatory reporting of child abuse or neglect; and amending RCW 26.44.030.

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

Sec. 1. RCW 26.44.030 and 2003 c 207 s 4 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, 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 ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as

part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "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.

(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.

((e)) (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.

((d)) (e) 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. 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 reports of alleged abuse or neglect, the department or law enforcement agency may interview children. 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. 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.

(11) Upon receiving a report of alleged child abuse and neglect, the department or investigating law enforcement agency shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(13) 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. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

(14) 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.

(15) 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, after investigation, a report of abuse or neglect that has been founded with regard to a member of the household within three years of receipt of the referral.

NEW SECTION. Sec. 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate March 9, 2005.

Passed by the House April 19, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 418

[Substitute Senate Bill 5227]
WILDLIFE HARVEST REPORTS

AN ACT Relating to wildlife harvest reports; amending RCW 77.32.070, 77.15.280, and 77.12.170; and prescribing penalties.

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

Sec. 1. RCW 77.32.070 and 2004 c 248 s 3 are each amended to read as follows:

(1) Applicants for a license, permit, tag, or stamp shall furnish the information required by the director. However, the director may not require the purchaser of a razor clam license under RCW 77.32.520 to provide any personal information except for proof of residency. The commission may adopt rules requiring licensees or permittees to keep records and make reports concerning the taking of or effort to harvest fish, shellfish, and wildlife. The reporting requirement may be waived where, for any reason, the department is not able to receive the report. The department must provide reasonable options for a licensee to submit information to a live operator prior to the reporting deadline.

(2) The commission may, by rule, set an administrative penalty for failure to comply with rules requiring the reporting of taking or effort to harvest wildlife. The commission may also adopt rules requiring hunters who have not reported for the previous license year to complete a report and pay the assessed administrative penalty before a new hunting license is issued.

(a) The total administrative penalty per hunter set by the commission must not exceed ten dollars.

(b) By December 31st of each year, the department shall report the rate of hunter compliance with the harvest reporting requirement, the administrative penalty imposed for failing to report, and the amount of administrative penalties collected during that year to the appropriate fiscal and policy committees of the senate and house of representatives.

Sec. 2. RCW 77.15.280 and 1998 c 190 s 47 are each amended to read as follows:

(1) A person is guilty of violating rules requiring reporting of fish or wildlife harvest if the person:

(a) Fails to make a harvest log report of a commercial fish or shellfish catch in violation of any rule of the commission or the director;

(b) Fails to maintain a trapper's report or taxidermist ledger in violation of any rule of the commission or the director;

(c) Fails to submit any portion of a big game animal for a required inspection required by rule of the commission or the director; or

(d) Fails to return a catch record card (~~or wildlife harvest report~~) to the department as required by rule of the commission or director.

(2) Violating rules requiring reporting of fish or wildlife harvest is a misdemeanor.

Sec. 3. RCW 77.12.170 and 2004 c 248 s 4 are each amended to read as follows:

(1) There is established in the state treasury the state wildlife fund 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;
 - (c) The assessment of administrative penalties, and the sale of licenses, permits, tags, and stamps required by chapter 77.32 RCW and RCW 77.65.490, except annual resident adult saltwater and all annual razor clam and shellfish licenses, which shall be deposited into the state general fund;
 - (d) Fees for informational materials published by the department;
 - (e) Fees for personalized vehicle license plates as provided in chapter 46.16 RCW;
 - (f) Articles or wildlife sold by the director under this title;
 - (g) Compensation for damage to department property or wildlife losses or contributions, gifts, or grants received under RCW 77.12.320;
 - (h) Excise tax on anadromous game fish collected under chapter 82.27 RCW;
 - (i) The sale of personal property seized by the department for fish, shellfish, or wildlife violations;
 - (j) The department's share of revenues from auctions and raffles authorized by the commission; and
 - (k) The sale of watchable wildlife decals under RCW 77.32.560.
- (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 fund.

Passed by the Senate April 23, 2005.

Passed by the House April 24, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 419

[Substitute Senate Bill 5290]

LIVESTOCK—THEFT—DAMAGE

AN ACT Relating to theft of or damage to livestock; amending RCW 9A.56.080 and 4.24.320; and prescribing penalties.

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

Sec. 1. RCW 9A.56.080 and 2003 c 53 s 74 are each amended to read as follows:

(1) Every person who, with intent to sell or exchange and to deprive or defraud the lawful owner thereof, willfully takes, leads, or transports away, conceals, withholds, slaughters, or otherwise appropriates any horse, mule, cow, heifer, bull, steer, swine, goat, or sheep is guilty of theft of livestock in the first degree.

(2) Theft of livestock in the first degree is a class B felony.

Sec. 2. RCW 4.24.320 and 2003 c 53 s 4 are each amended to read as follows:

Any person who suffers damage((s)) to livestock as a result of actions described in RCW ((9A.48.080(e)) 16.52.205 or any owner of ((a horse, mule, cow, heifer, bull, steer, swine, or sheep)) livestock who suffers damage((s)) as a result of a willful, unauthorized act described in RCW 9A.56.080 or 9A.56.083 may bring an action against the person or persons committing the act in a court

of competent jurisdiction for exemplary damages up to three times the actual damages sustained, plus attorney's fees. As used in this section, "livestock" means the animals specified in RCW 9A.56.080.

Passed by the Senate April 23, 2005.

Passed by the House April 14, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 420

[Second Substitute Senate Bill 5663]

CEREAL GRAINS AND GRASS GROWN FOR SEED—TAX EXEMPTION

AN ACT Relating to repealing and narrowing tax incentives for machinery and equipment used to reduce agricultural burning of cereal grains and grass grown for seed for air quality purposes; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; repealing RCW 82.08.840, 82.12.840, 82.04.4459, and 84.36.580; providing an effective date; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that rules enacted to improve air quality in selected parts of eastern Washington created a financial hardship for some growers of cereal grains and grass grown for seed. As stated in RCW 70.94.656, it is "the policy of this state ...to promote the development of economical and practical alternate agricultural practices to such burning...". The legislature provided tax incentives in 2000 to assist such growers transition to alternative management systems while further improving air quality. Because those incentives have been difficult to administer, the legislature finds that it is necessary to refine and narrow those incentives.

NEW SECTION. Sec. 2. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to:

(a) Sales of the following machinery and equipment to qualified farmers: No-till drills, minimum-till drills, chisels, plows, sprayers, discs, cultivators, harrows, mowers, swathers, power rakes, balers, bale handlers, shredders, transplanter, tractors two hundred fifty horsepower and over designed to pull conservation equipment on steep hills and highly erodible lands, and combine components limited to straw choppers, chaff spreaders, and stripper headers; and

(b) Labor and services rendered in respect to constructing hay sheds for qualified farmers or to sales of tangible personal property to qualified farmers that becomes an ingredient or component of hay sheds during the course of the constructing.

(2)(a) No application is necessary for the tax exemption in this section. A person taking the exemption under this section must keep records necessary for the department to verify eligibility. The department may request from a qualified farmer, copies of farm service agency or crop insurance records for verification purposes, however information obtained from farm service agency or crop insurance records is deemed taxpayer information under RCW 82.32.330 and is not disclosable.

(b) The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files.

(3) The definitions in this subsection apply to this section.

(a) "Qualified farmer" means a farmer as defined in RCW 82.04.213 who has more than fifty percent of his or her tillable acres in cereal grains and/or field and turf grass grown for seed in qualified counties.

(b) "Qualified counties" means those counties in Washington state where cereal grain production within the county exceeds fifteen thousand acres.

(4) This section expires January 1, 2011.

NEW SECTION. Sec. 3. A new section is added to chapter 82.12 RCW to read as follows:

(1) The tax levied by RCW 82.12.020 does not apply in respect to:

(a) The use of the following machinery and equipment by qualified farmers: No-till drills, minimum-till drills, chisels, plows, sprayers, discs, cultivators, harrows, mowers, swathers, power rakes, balers, bale handlers, shredders, transplanter, tractors two hundred fifty horsepower and over designed to pull conservation equipment on steep hills and highly erodible lands, and combine components limited to straw choppers, chaff spreaders, and stripper headers; and

(b) The use of tangible personal property that will be incorporated as an ingredient or component of hay sheds by a qualified farmer, during the course of constructing such hay sheds;

(2) The eligibility requirements, conditions, and definitions in section 2 of this act apply to this section.

(3) This section expires January 1, 2011.

NEW SECTION. Sec. 4. The following acts or parts of acts are each repealed:

(1) RCW 82.08.840 (Exemptions—Machinery, equipment, or structures that reduce field burning) and 2000 c 40 s 2;

(2) RCW 82.12.840 (Exemptions—Machinery, equipment, or structures that reduce field burning) and 2003 c 5 s 14 & 2000 c 40 s 3;

(3) RCW 82.04.4459 (Credit—Field burning reduction costs) and 2000 c 40 s 4; and

(4) RCW 84.36.580 (Property used to reduce field burning) and 2000 c 40 s 5.

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 July 1, 2005.

Passed by the Senate April 21, 2005.

Passed by the House April 11, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 421

[Substitute Senate Bill 5899]

BACKGROUND CHECKS

AN ACT Relating to background checks; amending RCW 43.43.830, 43.43.832, 43.43.834, 43.43.836, 43.43.838, 43.43.840, 43.43.845, and 10.97.050; adding a new section to chapter 43.43 RCW; and repealing RCW 43.43.835.

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

Sec. 1. RCW 43.43.830 and 2003 c 105 s 5 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through ~~((43.43.840))~~ 43.43.845.

(1) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults;

(c) Any prospective adoptive parent, as defined in RCW 26.33.020; or

(d) Any prospective custodian in a nonparental custody proceeding under chapter 26.10 RCW.

(2) "Business or organization" means a business or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, including but not limited to public housing authorities, school districts, and educational service districts.

(3) "Civil adjudication proceeding" ~~((means a specific court finding of sexual abuse or exploitation or physical abuse in a dependency action under RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In the case of vulnerable adults, civil adjudication means a specific court finding of abuse or financial exploitation in a protection proceeding under chapter 74.34 RCW. It does not include administrative proceedings. The term "civil adjudication" is further limited to court findings that identify as the perpetrator of the abuse a named individual, over the age of eighteen years, who was a party to the dependency or dissolution proceeding or was a respondent in a protection proceeding in which the finding was made and who contested the allegation of abuse or exploitation))~~ is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, or exploitation or financial exploitation of a child or vulnerable adult under chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative orders that become final due to the failure of

the alleged perpetrator to timely exercise a right afforded to him or her to administratively challenge findings made by the department of social and health services or the department of health under chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW.

(4) "Conviction record" means "conviction record" information as defined in RCW 10.97.030~~((3))~~ and 10.97.050 relating to a crime (~~(against children or other persons)~~) committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(5) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnaping; first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; endangerment with a controlled substance; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; first or second degree custodial sexual misconduct; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; patronizing a juvenile prostitute; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

(6) "Crimes relating to drugs" means a conviction of a crime to manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

(7) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(8) (~~"Disciplinary board final decision" means any final decision issued by a disciplining authority under chapter 18.130 RCW or the secretary of the department of health for the following businesses or professions:~~

- ~~(a) Chiropractic;~~
- ~~(b) Dentistry;~~
- ~~(c) Dental hygiene;~~
- ~~(d) Massage;~~
- ~~(e) Midwifery;~~
- ~~(f) Naturopathy;~~
- ~~(g) Osteopathic medicine and surgery;~~

- (h) Physical therapy;
- (i) Physicians;
- (j) Practical nursing;
- (k) Registered nursing; and
- (l) Psychology.

"Disciplinary board final decision," for real estate brokers and salespersons, means any final decision issued by the director of the department of licensing for real estate brokers and salespersons.

~~(9))~~ "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

~~((10))~~ (9) "Vulnerable adult" means "vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

~~((11))~~ (10) "Financial exploitation" means ~~((the illegal or improper use of a vulnerable adult or that adult's resources for another person's profit or advantage))~~ "financial exploitation" as defined in RCW 74.34.020.

~~((12))~~ (11) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults.

Sec. 2. RCW 43.43.832 and 2000 c 87 s 1 are each amended to read as follows:

(1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. The legislature further finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol ~~((criminal))~~ identification ~~((system))~~ and criminal history section shall disclose, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian, an applicant's record for convictions ~~((of offenses against children or other persons, convictions for crimes relating to financial exploitation, but only if the victim was a vulnerable adult, adjudications of child abuse in a civil action, the issuance of a protection order against the respondent under chapter 74.34 RCW, and disciplinary board final decisions and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision))~~ as defined in chapter 10.97 RCW.

(2) The legislature also finds that the state board of education may request of the Washington state patrol criminal identification system information regarding a certificate applicant's record for convictions under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the secretary of the department of social and health services must ((consider)) establish rules and set standards to require specific action when considering the information listed in subsection (1) of this section, and when considering additional information including but not limited to civil adjudication proceedings as defined in RCW 43.43.830 and any out-of-state equivalent, in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or treatment of children, vulnerable adults, or individuals with mental illness or developmental disabilities;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

(e) When individual providers are paid by the state or providers are paid by home care agencies to provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(5) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees.

(6)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request from another health care facility, share copies of completed criminal background inquiry information.

(b) Completed criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The

licensed health care facility sharing the criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the criminal background information is no more than two years old.

(c) If criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's criminal background inquiry information. A new criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(g) For the purposes of this subsection, "health care facility" means a nursing home licensed under chapter 18.51 RCW, a boarding home licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(7) If a federal bureau of investigation check is required in addition to the state background check by the department of social and health services, an applicant who is not disqualified based on the results of the state background check shall be eligible for a one hundred twenty day provisional approval to hire, pending the outcome of the federal bureau of investigation check. The department may extend the provisional approval until receipt of the federal bureau of investigation check. If the federal bureau of investigation check disqualifies an applicant, the department shall notify the requestor that the provisional approval to hire is withdrawn and the applicant may be terminated.

Sec. 3. RCW 43.43.834 and 1999 c 21 s 2 are each amended to read as follows:

(1) A business or organization shall not make an inquiry to the Washington state patrol under RCW 43.43.832 or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who (~~has been~~) may be offered a position as an employee or volunteer, that an inquiry may be made.

(2) A business or organization shall require each applicant to disclose to the business or organization whether the applicant (~~has been~~):

(a) Has been convicted of (~~any~~) a crime (~~against children or other persons~~);

~~(b) ((Convicted of crimes relating to financial exploitation if the victim was a vulnerable adult))~~ Has had findings made against him or her in any civil adjudicative proceeding as defined in RCW 43.43.830; or

~~(c) ((Convicted of crimes related to drugs as defined in RCW 43.43.830;~~

~~(d) Found in any dependency action under RCW 13.34.040 to have sexually assaulted or exploited any minor or to have physically abused any minor;~~

~~(e) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor;~~

~~(f) Found in any disciplinary board final decision to have sexually or physically abused or exploited any minor or developmentally disabled person or to have abused or financially exploited any vulnerable adult; or~~

~~(g) Found by a court in a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult.~~

~~The disclosure shall be made in writing and signed by the applicant and sworn under penalty of perjury. The disclosure sheet shall specify all crimes against children or other persons and all crimes relating to financial exploitation as defined in RCW 43.43.830 in which the victim was a vulnerable adult))~~ Has both a conviction under (a) of this subsection and findings made against him or her under (b) of this subsection.

(3) The business or organization shall pay such reasonable fee for the records check as the state patrol may require under RCW 43.43.838.

(4) The business or organization shall notify the applicant of the state patrol's response within ten days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(5) The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited, except as provided in RCW 28A.320.155. A business or organization violating this subsection is subject to a civil action for damages.

(6) An insurance company shall not require a business or organization to request background information on any employee before issuing a policy of insurance.

(7) The business and organization shall be immune from civil liability for failure to request background information on an applicant unless the failure to do so constitutes gross negligence.

Sec. 4. RCW 43.43.836 and 1987 c 486 s 4 are each amended to read as follows:

An individual may contact the state patrol to ascertain whether ~~((that same))~~ an individual has a ~~((civil adjudication, disciplinary board final decision, or))~~ conviction record. The state patrol shall disclose such information, subject to the fee established under RCW 43.43.838.

Sec. 5. RCW 43.43.838 and 1995 c 29 s 1 are each amended to read as follows:

(1) After January 1, 1988, and notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the state patrol shall furnish a transcript of the conviction record ~~((, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the~~

~~disciplinary board final decision, or civil adjudication record~~) pertaining to any person for whom the state patrol or the federal bureau of investigation has a record upon the written request of:

- (a) The subject of the inquiry;
- (b) Any business or organization for the purpose of conducting evaluations under RCW 43.43.832;
- (c) The department of social and health services;
- (d) Any law enforcement agency, prosecuting authority, or the office of the attorney general; or
- (e) The department of social and health services for the purpose of meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to regulate or license a facility which handles vulnerable adults. However, access to conviction records pursuant to this subsection (1)(e) does not limit or restrict the ability of the department to obtain additional information regarding conviction records and pending charges as set forth in RCW 74.15.030(2)(b).

~~((After processing the request, if the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or adjudication record shows no evidence of a crime against children or other persons or, in the case of vulnerable adults, no evidence of crimes relating to financial exploitation in which the victim was a vulnerable adult, an identification declaring the showing of no evidence shall be issued to the business or organization by the state patrol and shall be issued within fourteen working days of the request. The business or organization shall provide a copy of the identification declaring the showing of no evidence to the applicant. Possession of such identification shall satisfy future record check requirements for the applicant for a two-year period unless the prospective employee is any current school district employee who has applied for a position in another school district.))~~

(2) The state patrol shall by rule establish fees for disseminating records under this section to recipients identified in subsection (1)(a) and (b) of this section. The state patrol shall also by rule establish fees for disseminating records in the custody of the national crime information center. The revenue from the fees shall cover, as nearly as practicable, the direct and indirect costs to the state patrol of disseminating the records(~~(= PROVIDED, That)~~). ~~No fee shall be charged to a nonprofit organization for the records check(= PROVIDED FURTHER, That)~~. In the case of record checks using fingerprints requested by school districts and educational service districts, the state patrol shall charge only for the incremental costs associated with checking fingerprints in addition to name and date of birth. Record checks requested by school districts and educational service districts using only name and date of birth shall continue to be provided free of charge.

(3) No employee of the state, employee of a business or organization, or the business or organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or 43.43.760.

(4) Before July 26, 1987, the state patrol shall adopt rules and forms to implement this section and to provide for security and privacy of information disseminated under this section, giving first priority to the criminal justice

requirements of this chapter. The rules may include requirements for users, audits of users, and other procedures to prevent use of civil adjudication record information or criminal history record information inconsistent with this chapter.

(5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an employer to make an inquiry not specifically authorized by this chapter, or be construed to affect the policy of the state declared in chapter 9.96A RCW.

Sec. 6. RCW 43.43.840 and 1997 c 386 s 40 are each amended to read as follows:

~~((1) The supreme court shall by rule require the courts of the state to notify the state patrol of any dependency action under RCW 13.34.040, domestic relations action under Title 26 RCW, or protection action under chapter 74.34 RCW, in which the court makes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.~~

~~(2) The department of licensing shall notify the state patrol of any disciplinary board final decision that includes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.~~

~~(3))~~ When a business or an organization terminates, fires, dismisses, fails to renew the contract, or permits the resignation of an employee because of crimes against children or other persons or because of crimes relating to the financial exploitation of a vulnerable adult, and if that employee is employed in a position requiring a certificate or license issued by a licensing agency such as the state board of education, the business or organization shall notify the licensing agency of such termination of employment.

Sec. 7. RCW 43.43.845 and 1990 c 33 s 577 are each amended to read as follows:

(1) Upon a guilty plea or conviction of a person of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, or the sale or purchase of a minor child under RCW 9A.64.030, ~~((the prosecuting attorney shall determine whether the person holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district. If the person is employed by a school district or holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW,))~~ the prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives information that a person ~~((who has a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district))~~ has pled guilty to or been convicted of one of the felony crimes under subsection (1) of this section, the state patrol shall ~~((immediately))~~ transmit that information to the superintendent of public instruction. It shall be the duty of the superintendent of public instruction to identify whether the person holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district, and provide this

information to the state board of education and the school district employing the individual who pled guilty or was convicted of the crimes identified in subsection (1) of this section.

NEW SECTION, Sec. 8. RCW 43.43.835 (Background checks—Drug-related conviction information) and 1998 c 10 s 2 are each repealed.

Sec. 9. RCW 10.97.050 and 1990 c 3 s 129 are each amended to read as follows:

(1) Conviction records may be disseminated without restriction.

(2) Any criminal history record information which pertains to an incident that occurred within the last twelve months for which a person is currently being processed by the criminal justice system, including the entire period of correctional supervision extending through final discharge from parole, when applicable, may be disseminated without restriction with the exception of a record being disseminated in response to a request for a conviction record under RCW 43.43.832. A request for a conviction record under RCW 43.43.832 shall not contain information for a person who, within the last twelve months, is currently being processed by the criminal justice system unless it pertains to information relating to a crime against a person as defined in RCW 9.94A.411.

(3) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to another criminal justice agency for any purpose associated with the administration of criminal justice, or in connection with the employment of the subject of the record by a criminal justice or juvenile justice agency. A criminal justice agency may respond to any inquiry from another criminal justice agency without any obligation to ascertain the purpose for which the information is to be used by the agency making the inquiry.

(4) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to implement a statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to records of arrest, charges, or allegations of criminal conduct or other nonconviction data and authorizes or directs that it be available or accessible for a specific purpose.

(5) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies pursuant to a contract with a criminal justice agency to provide services related to the administration of criminal justice. Such contract must specifically authorize access to criminal history record information, but need not specifically state that access to nonconviction data is included. The agreement must limit the use of the criminal history record information to stated purposes and insure the confidentiality and security of the information consistent with state law and any applicable federal statutes and regulations.

(6) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency. Such agreement must authorize the access to nonconviction data, limit the use of that information which identifies specific individuals to research, evaluative, or statistical purposes, and contain provisions giving notice to the person or organization to which the records are disseminated

that the use of information obtained therefrom and further dissemination of such information are subject to the provisions of this chapter and applicable federal statutes and regulations, which shall be cited with express reference to the penalties provided for a violation thereof.

(7) Every criminal justice agency that maintains and disseminates criminal history record information must maintain information pertaining to every dissemination of criminal history record information except a dissemination to the effect that the agency has no record concerning an individual. Information pertaining to disseminations shall include:

(a) An indication of to whom (agency or person) criminal history record information was disseminated;

(b) The date on which the information was disseminated;

(c) The individual to whom the information relates; and

(d) A brief description of the information disseminated.

The information pertaining to dissemination required to be maintained shall be retained for a period of not less than one year.

(8) In addition to the other provisions in this section allowing dissemination of criminal history record information, RCW 4.24.550 governs dissemination of information concerning offenders who commit sex offenses as defined by RCW 9.94A.030. Criminal justice agencies, their employees, and officials shall be immune from civil liability for dissemination on criminal history record information concerning sex offenders as provided in RCW 4.24.550.

NEW SECTION. Sec. 10. A new section is added to chapter 43.43 RCW to read as follows:

When the Washington state patrol disseminates conviction record information in response to a request under RCW 43.43.832, it shall clearly state that: (1) The conviction record data does not include information on civil adjudications, administrative findings, or disciplinary board final decisions and that all such information must be obtained from the courts and licensing agencies; (2) the conviction record that is being disseminated includes information for which a person is currently being processed by the criminal justice system relating to only crimes against a person as defined in RCW 9.94A.411 and that it does not include any other current or pending charge information for which a person could be in the current process of being processed by the criminal justice system; and (3) an arrest is not a conviction or a finding of guilt.

Passed by the Senate April 18, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 422

[Substitute Senate Bill 6014]

INDUSTRIAL INSURANCE—DISASTER RESPONSE

AN ACT Relating to industrial insurance claims made due to disaster response; amending RCW 38.52.105; adding a new section to chapter 51.16 RCW; creating a new section; 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 51.16 RCW to read as follows:

(1) When a worker of a nongovernment employer is injured or develops an occupational disease due to an exposure while assisting in the life and rescue phase of an emergency, in response to a request for assistance from a state or local government entity, including fire service or law enforcement, the cost of benefits shall be reimbursed from the disaster response account, RCW 38.52.105, to the appropriate workers' compensation fund, or to the self-insured employer, as the case may be. The cost of such injuries or occupational diseases shall not be charged to the experience record of a state fund employer.

(2) For the purposes of this section, "life and rescue phase" means the first seventy-two hours after the occurrence of a natural or man-made disaster in which a state or municipal entity, including fire service or law enforcement, acknowledges or declares such a disaster and requests assistance from the private sector in locating and rescuing survivors. The initial life and rescue phase may be extended for a finite period of time by declaration of the state or municipal entity requesting assistance.

Sec. 2. RCW 38.52.105 and 2002 c 371 s 903 are each amended to read as follows:

The disaster response account is created in the state treasury. Moneys may be placed in the account from legislative appropriations and transfers, federal appropriations, or any other lawful source. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for support of state agency and local government disaster response and recovery efforts and to reimburse the workers' compensation funds and self-insured employers under section 1 of this act. During the 2001-03 biennium, funds from the account may also be used for costs associated with national security preparedness activities.

NEW SECTION. Sec. 3. The department of labor and industries may adopt rules to implement this act.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 19, 2005.

Passed by the House April 11, 2005.

Approved by the Governor May 11, 2005.

Filed in Office of Secretary of State May 11, 2005.

CHAPTER 423

[Engrossed House Bill 2241]

GROWTH MANAGEMENT ACT—RECREATIONAL LAND

AN ACT Relating to limited recreational activities, playing fields, and supporting facilities existing before July 1, 2004, on designated recreational lands in jurisdictions planning under RCW 36.70A.040; amending RCW 36.70A.030, 36.70A.060, and 36.70A.130; adding new sections to chapter 36.70A RCW; creating a new section; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature recognizes the need for playing fields and supporting facilities for sports played on grass as well as the need to preserve agricultural land of long-term commercial significance. With thoughtful and deliberate planning, and adherence to the goals and requirements of the growth management act, both needs can be met.

The legislature acknowledges the state's interest in preserving the agricultural industry and family farms, and recognizes that the state's rich and productive lands enable agricultural production. Because of its unique qualities and limited quantities, designated agricultural land of long-term commercial significance is best suited for agricultural and farm uses, not recreational uses.

The legislature acknowledges also that certain local governments have either failed or neglected to properly plan for population growth and the sufficient number of playing fields and supporting facilities needed to accommodate this growth. The legislature recognizes that citizens responded to this lack of planning, fields, and supporting facilities by constructing nonconforming fields and facilities on agricultural lands of long-term commercial significance. It is the intent of the legislature to permit the continued existence and use of these fields and facilities in very limited circumstances if specific criteria are satisfied within a limited time frame. It is also the intent of the legislature to grant this authorization without diminishing the designation and preservation requirements of the growth management act pertaining to Washington's invaluable farmland.

Sec. 2. RCW 36.70A.030 and 1997 c 429 s 3 are each amended to read as follows:

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

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.

(6) "Department" means the department of community, trade, and economic development.

(7) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances,

and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(8) "Forest land" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forest land is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forest land to other uses.

(9) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(10) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(11) "Minerals" include gravel, sand, and valuable metallic substances.

(12) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(13) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(14) "Recreational land" means land so designated under section 4 of this act and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(15) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.

~~((45))~~ (16) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

~~((46))~~ (17) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

~~((47))~~ (18) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

~~((48))~~ (19) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

~~((49))~~ (20) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

~~((20))~~ (21) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or

highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

Sec. 3. RCW 36.70A.060 and 1998 c 286 s 5 are each amended to read as follows:

(1)(a) Except as provided in section 4 of this act, each county that is required or chooses to plan under RCW 36.70A.040, and each city within such county, shall adopt development regulations on or before September 1, 1991, to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection may not prohibit uses legally existing on any parcel prior to their adoption and shall remain in effect until the county or city adopts development regulations pursuant to RCW 36.70A.040. Such regulations shall assure that the use of lands adjacent to agricultural, forest, or mineral resource lands shall not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals.

(b) Counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within five hundred feet of, lands designated as agricultural lands, forest lands, or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. The notice for mineral resource lands shall also inform that an application might be made for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.

(2) Each county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170. For counties and cities that are required or choose to plan under RCW 36.70A.040, such development regulations shall be adopted on or before September 1, 1991. For the remainder of the counties and cities, such development regulations shall be adopted on or before March 1, 1992.

(3) Such counties and cities shall review these designations and development regulations when adopting their comprehensive plans under RCW 36.70A.040 and implementing development regulations under RCW 36.70A.120 and may alter such designations and development regulations to insure consistency.

(4) Forest land and agricultural land located within urban growth areas shall not be designated by a county or city as forest land or agricultural land of long-term commercial significance under RCW 36.70A.170 unless the city or county has enacted a program authorizing transfer or purchase of development rights.

NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW to read as follows:

(1)(a) The legislative authority of a county subject to the provisions of RCW 36.70A.215 with a population fewer than one million and a total market value of production greater than one hundred twenty-five million dollars as reported by the United States department of agriculture's 2002 census of agriculture county profile may, by resolution, and in accordance with the requirements of RCW

36.70A.035 and 36.70A.140, designate agricultural lands designated pursuant to RCW 36.70A.170 as recreational lands. Lands eligible for designation as recreational lands must not be in use for the commercial production of food or other agricultural products and must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(b) Designated recreational lands may be used only for athletic or related activities, playing fields, and supporting facilities for sports played on grass playing fields or for agricultural uses.

(c) The recreational lands designation shall supersede previous designations and shall require an amendment to the comprehensive plan prepared pursuant to RCW 36.70A.070.

(2) Lands eligible for designation as recreational land must be registered by the property owner or owners with the county within which the land is located no fewer than ninety days before being designated as recreational land.

(3) Agricultural lands of long-term commercial significance designated under RCW 36.70A.170: (a) That were purchased in full or in part with public funds; or (b) with property rights or interests that were purchased in full or in part with public funds, may not be designated as recreational land.

(4) Playing fields and supporting facilities for sports played on grass playing fields must comply with applicable permitting requirements and development regulations. The size and capacity of the playing fields and supporting facilities, irrespective of parcel size, may not exceed the infrastructure capacity of the county within which the fields and facilities are located.

(5) The designation of recreational land shall not affect other lands designated under RCW 36.70A.170(1)(b), and shall not preclude reversion to agricultural uses.

(6) This section expires June 30, 2006.

NEW SECTION. Sec. 5. A new section is added to chapter 36.70A RCW to read as follows:

In accordance with sections 2 through 4 of this act and RCW 36.70A.130, playing fields and supporting facilities existing before July 1, 2004, on designated recreational lands shall be considered in compliance with the requirements of this chapter.

Sec. 6. RCW 36.70A.130 and 2002 c 320 s 1 are each amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. A county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section. A county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing

indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefore. The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section. The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(b) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the time periods specified in subsection (4) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea;

(ii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW; ~~(and)~~

(iii) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; and

(iv) Until June 30, 2006, the designation of recreational lands under section 4 of this act. A county amending its comprehensive plan pursuant to this subsection (2)(a)(iv) may not do so more frequently than every eighteen months.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with a growth management hearings board or with the court.

(3) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas. The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required

by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(4) The department shall establish a schedule for counties and cities to take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter. The schedule established by the department shall provide for the reviews and evaluations to be completed as follows:

(a) On or before December 1, 2004, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2005, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2006, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2007, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the time limits established in subsection (4) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(6) A county or city subject to the time periods in subsection (4)(a) of this section that, pursuant to an ordinance adopted by the county or city establishing a schedule for periodic review of its comprehensive plan and development regulations, has conducted a review and evaluation of its comprehensive plan and development regulations and, on or after January 1, 2001, has taken action in response to that review and evaluation shall be deemed to have conducted the first review required by subsection (4)(a) of this section. Subsequent review and evaluation by the county or city of its comprehensive plan and development regulations shall be conducted in accordance with the time periods established under subsection (4)(a) of this section.

(7) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities in compliance with the schedules in this section shall have the requisite authority to receive grants, loans, pledges, or financial guarantees from those accounts established in RCW 43.155.050 and 70.146.030. Only those counties and cities in compliance with the schedules in this section shall receive preference for grants or loans subject to the provisions of RCW 43.17.250.

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

Passed by the House March 11, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 12, 2005.

Filed in Office of Secretary of State May 12, 2005.

CHAPTER 424

[Engrossed Second Substitute Senate Bill 5581]

LIFE SCIENCES RESEARCH

AN ACT Relating to the strategic financing of life sciences research; amending RCW 43.79.480 and 42.30.110; reenacting and amending RCW 42.17.310, 42.17.310, 42.17.2401, and 43.79A.040; adding a new section to chapter 82.04 RCW; adding a new section to chapter 41.06 RCW; adding a new chapter to Title 43 RCW; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. LEGISLATIVE DECLARATION. The legislature declares that promoting the health of state residents is a fundamental purpose of state government. The legislature declares it to be a clear public purpose and governmental function to promote life sciences research to foster a preventive and predictive vision of the next generation of health-related innovations, to enhance the competitive position of Washington state in this vital sector of the economy, and to improve the quality and delivery of health care for the people of Washington. The legislature finds that public support for and promotion of life sciences research will benefit the state and its residents through improved health status and health outcomes, economic development, and contributions to scientific knowledge, and such research will lead to breakthroughs and improvements that might not otherwise be discovered due to lack of existing market incentives, especially in the area of regenerative medicine. The legislature finds that public support for and promotion of life sciences research has the potential to provide cures or new treatments for many debilitating diseases that cost the state millions of dollars each year. It is appropriate and consistent with the intent of the master settlement agreement between the state and tobacco product manufacturers to invest a portion of the revenues derived therefrom by the state in life sciences research, to leverage the revenues with other funds, and to encourage cooperation and innovation among public and private institutions involved in life sciences research. The purpose of this chapter is to establish a life sciences discovery fund authority, to grant that authority the power to contract with the state to receive revenues under the master settlement agreement, and to contract with other entities to receive other funds, and to disburse those funds consistent with the purpose of this chapter. The life sciences discovery fund is intended to promote the best available research in life sciences disciplines through diverse Washington institutions and to build upon existing strengths in the area of biosciences and biomanufacturing in order to spread the economic benefits across the state. The life sciences discovery fund is also intended to foster improved health care outcomes and improved agricultural production research across this state and the world. The research investments of the life sciences discovery fund are intended to further the goals of the "Bio 21" report and to support future statewide, comprehensive strategies to lead the nation in life sciences-related research and employment.

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

(1) "Authority" means the life sciences discovery fund authority created in this chapter.

(2) "Board" means the governing board of trustees of the authority.

(3) "Contribution agreement" means any agreement authorized under this chapter in which a private entity or a public entity other than the state agrees to provide to the authority contributions for the purpose of promoting life sciences research.

(4) "Life sciences research" means advanced and applied research and development intended to improve human health, including scientific study of the developing brain and human learning and development, and other areas of scientific research and development vital to the state's economy.

(5) "Master settlement agreement" means the national master settlement agreement and related documents entered into on November 23, 1998, by the state and the four principal United States tobacco product manufacturers, as amended and supplemented, for the settlement of litigation brought by the state against the tobacco product manufacturers.

(6) "Public employee" means any person employed by the state of Washington or any agency or political subdivision thereof.

(7) "Public facilities" means any public institution, public facility, public equipment, or any physical asset owned, leased, or controlled by the state of Washington or any agency or political subdivision thereof.

(8) "Public funds" means any funds received or controlled by the state of Washington or any agency or political subdivision thereof, including, but not limited to, funds derived from federal, state, or local taxes, gifts or grants from any source, public or private, federal grants or payments, or intergovernmental transfers.

(9) "State agreement" means the agreement authorized under this chapter in which the state provides to the authority the strategic contribution payments required to be made by tobacco product manufacturers to the state and the state's rights to receive such payments, pursuant to the master settlement agreement, for the purpose of promoting life sciences research.

(10) "Strategic contribution payments" means the payments designated as such under the master settlement agreement, which will be made to the state in the years 2008 through 2017.

NEW SECTION. Sec. 3. LIFE SCIENCES DISCOVERY FUND AUTHORITY—ESTABLISHED. (1) The life sciences discovery fund authority is created and constitutes a public instrumentality and agency of the state, separate and distinct from the state, exercising public and essential governmental functions.

(2) The powers of the authority are vested in and shall be exercised by a board of trustees consisting of: Two members of either the house appropriations committee or the house committee dealing with technology issues, one from each caucus, to be appointed by the speaker of the house of representatives; two members of either the senate committee on ways and means or the senate committee dealing with technology issues, one from each caucus, to be appointed by the president of the senate; and seven members appointed by the governor with the consent of the senate, one of whom shall be appointed by the

governor as chair of the authority and who shall serve on the board and as chair of the authority at the pleasure of the governor. The respective officials shall make the initial appointments no later than thirty days after the effective date of this section. The term of the trustees, other than the chair, is four years from the date of their appointment, except that the terms of three of the initial gubernatorial appointees, as determined by the governor, are for two years from the date of their appointment. A trustee appointed by the governor may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The appropriate official shall fill any vacancy on the board by appointment for the remainder of the unexpired term. The trustees appointed by the governor shall be compensated in accordance with RCW 43.03.240 and may be reimbursed, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter, subject to RCW 43.03.050 and 43.03.060. The trustees who are legislators shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(3) Seven members of the board constitute a quorum.

(4) The trustees shall elect a treasurer and secretary annually, and other officers as the trustees determine necessary, and may adopt bylaws or rules for their own government.

(5) Meetings of the board shall be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the chair or when a majority of the trustees so requests. Meetings of the board may be held at any location within or out of the state, and trustees may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200.

(6) The authority is subject to audit by the state auditor.

(7) The attorney general must advise the authority and represent it in all legal proceedings.

NEW SECTION. Sec. 4. SPECIAL TRUST POWERS. In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

(1) Use public moneys in the life sciences discovery fund, leveraging those moneys with amounts received from other public and private sources in accordance with contribution agreements, to promote life sciences research;

(2) Solicit and receive gifts, grants, and bequests, and enter into contribution agreements with private entities and public entities other than the state to receive moneys in consideration of the authority's promise to leverage those moneys with amounts received through appropriations from the legislature and contributions from other public entities and private entities, in order to use those moneys to promote life sciences research. Nonstate moneys received by the authority for this purpose shall be deposited in the life sciences discovery fund created in section 8 of this act;

(3) Hold funds received by the authority in trust for their use pursuant to this chapter to promote life sciences research;

(4) Manage its funds, obligations, and investments as necessary and as consistent with its purpose including the segregation of revenues into separate funds and accounts;

(5) Make grants to entities pursuant to contract for the promotion of life sciences research to be conducted in the state. Grant agreements shall specify

deliverables to be provided by the recipient pursuant to the grant. The authority shall solicit requests for funding and evaluate the requests by reference to factors such as: (a) The quality of the proposed research; (b) its potential to improve health outcomes, with particular attention to the likelihood that it will also lower health care costs, substitute for a more costly diagnostic or treatment modality, or offer a breakthrough treatment for a particular disease or condition; (c) its potential for leveraging additional funding; (d) its potential to provide health care benefits or benefit human learning and development; (e) its potential to stimulate the health care delivery, biomedical manufacturing, and life sciences related employment in the state; (f) the geographic diversity of the grantees within Washington; (g) evidence of potential royalty income and contractual means to recapture such income for purposes of this chapter; and (h) evidence of public and private collaboration;

(6) Create one or more advisory boards composed of scientists, industrialists, and others familiar with life sciences research; and

(7) Adopt policies and procedures to facilitate the orderly process of grant application, review, and reward.

NEW SECTION. Sec. 5. GENERAL POWERS—RESTRICTIONS. The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers. In addition to other powers specified in this chapter, the authority may: (1) Sue and be sued in its own name; (2) make and execute agreements, contracts, and other instruments, with any public or private person or entity, in accordance with this chapter; (3) employ, contract with, or engage independent counsel, financial advisors, auditors, other technical or professional assistants, and such other personnel as are necessary or desirable to implement this chapter; (4) establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter; (5) enter into contracts with public and private entities for life sciences research to be conducted in the state; (6) adopt rules, consistent with this chapter; (7) delegate any of its powers and duties if consistent with the purposes of this chapter; (8) exercise any other power reasonably required to implement the purposes of this chapter; and (9) hire staff and pay administrative costs.

NEW SECTION. Sec. 6. LIMITATION OF LIABILITY. Members of the board and persons acting on behalf of the authority, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under this chapter. Neither the state nor the authority is liable for any loss, damage, harm, or other consequence resulting directly or indirectly from grants made by the authority or by any life sciences research funded by such grants.

NEW SECTION. Sec. 7. DISSOLUTION OF THE AUTHORITY. The authority may petition the legislature to be dissolved upon a showing that it has no reason to exist and that any assets it retains must be distributed to one or more similar entities approved by the legislature. The legislature reserves the right to dissolve the authority after its contractual obligations to its funders and grant recipients have expired.

NEW SECTION. Sec. 8. LIFE SCIENCES DISCOVERY FUND. The life sciences discovery fund is created in the custody of the state treasurer. Only the

board or the board's designee may authorize expenditures from the fund. Expenditures from the fund may be made only for purposes of this chapter. Administrative expenses of the authority, including staff support, may be paid only from the fund. Revenues to the fund consist of transfers made by the legislature from strategic contribution payments deposited in the tobacco settlement account under RCW 43.79.480, moneys received pursuant to contribution agreements entered into pursuant to section 4 of this act, moneys received from gifts, grants, and bequests, and interest earned on the fund.

NEW SECTION. Sec. 9. By December 1, 2005, the executive director of the life sciences discovery fund authority shall explore and make recommendations to the legislature regarding the potential for the state to receive royalty income and direct it to the higher education legacy trust fund.

NEW SECTION. Sec. 10. By December 1, 2006, the executive director of the life sciences discovery fund shall provide a report to the legislature on the anticipated return on investment to the state from the investment of public funds in the life sciences discovery fund, including potential job growth, royalty income, intellectual property rights, and other significant long-term benefits to the state.

NEW SECTION. Sec. 11. A new section is added to chapter 82.04 RCW to read as follows:

BUSINESS AND OCCUPATION TAX EXEMPTION. This chapter does not apply to income received by the life sciences discovery fund authority under chapter 43.— RCW (sections 1 through 8 of this act).

Sec. 12. RCW 43.79.480 and 2002 c 365 s 15 are each amended to read as follows:

(1) Moneys received by the state of Washington in accordance with the settlement of the state's legal action against tobacco product manufacturers, exclusive of costs and attorneys' fees, shall be deposited in the tobacco settlement account created in this section except as these moneys are sold or assigned under chapter 43.340 RCW.

(2) The tobacco settlement account is created in the state treasury. Moneys in the tobacco settlement account may only be transferred to the health services account for the purposes set forth in RCW 43.72.900, and to the tobacco prevention and control account for purposes set forth in this section. The legislature shall transfer amounts received as strategic contribution payments as defined in section 2 of this act to the life sciences discovery fund created in section 8 of this act.

(3) The tobacco prevention and control account is created in the state treasury. The source of revenue for this account is moneys transferred to the account from the tobacco settlement account, investment earnings, donations to the account, and other revenues as directed by law. Expenditures from the account are subject to appropriation.

Sec. 13. RCW 42.30.110 and 2003 c 277 s 1 are each amended to read as follows:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(A) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(B) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(C) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when

such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

NEW SECTION. Sec. 14. A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, this chapter does not apply to employees of the life sciences discovery fund authority under chapter 43.— RCW (sections 1 through 8 of this act).

Sec. 15. RCW 42.17.310 and 2003 1st sp.s. c 26 s 926, 2003 c 277 s 3, and 2003 c 124 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) 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.

(e) 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 public disclosure 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 public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) 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.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) 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 (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 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.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses or residential telephone numbers of employees or volunteers of a public agency which are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.040 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) 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.

(aa) 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.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) 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.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) 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.

(kk) Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043.

(ll) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.

(mm) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons.

(nn) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety.

(oo) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time

it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310. If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this section as exempt from disclosure. If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality.

(pp) 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.

(qq) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units.

(rr) 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).

(ss) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law.

(tt) 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 liquor license, gambling license, or lottery retail license.

(uu) Records maintained by the employment security department and subject to chapter 50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes.

(vv) Individually identifiable information received by the work force training and education coordinating board for research or evaluation purposes.

(ww) 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:

(i) 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

(ii) 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.

(xx) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data. However, this information may be released to government agencies concerned with the management of fish and wildlife resources.

(yy) Sensitive wildlife data obtained by the department of fish and wildlife. However, sensitive wildlife data may be released to government agencies concerned with the management of fish and wildlife resources. Sensitive wildlife data includes:

(i) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(ii) Radio frequencies used in, or locational data generated by, telemetry studies; or

(iii) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(A) The species has a known commercial or black market value;

(B) There is a history of malicious take of that species; or

(C) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

(zz) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag. However, the department of fish and wildlife may disclose personally identifying information to:

(i) Government agencies concerned with the management of fish and wildlife resources;

(ii) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(iii) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040.

(aaa)(i) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have not been commingled with other recorded documents. These records will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding that veteran's general power of attorney, or to anyone else designated in writing by that veteran to receive the records.

(ii) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have been commingled with other records, if the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor.

If such a request has been recorded, these records may be released only to the veteran filing the papers, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iii) Discharge papers of a veteran filed at the office of the county auditor after June 30, 2002, are not public records, but will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iv) For the purposes of this subsection (1)(aaa), next of kin of deceased veterans have the same rights to full access to the record. Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister.

(bbb) 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, 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 or any individual's safety.

(ccc) Information compiled by school districts or schools in the development of their comprehensive safe school plans pursuant to RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school.

(ddd) 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.

(eee) 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.

(fff) Proprietary data, trade secrets, or other information that relates to: (i) A vendor's unique methods of conducting business; (ii) data unique to the product or services of the vendor; or (iii) 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.

(ggg) Proprietary information deemed confidential for the purposes of section 923, chapter 26, Laws of 2003 1st sp. sess.

(hhh) 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.— RCW (sections 1 through 8 of this act), to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Sec. 16. RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) 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.

(e) 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 public disclosure 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 public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of

property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) 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.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) 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 (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 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.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses or residential telephone numbers of employees or volunteers of a public agency which are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.040 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) 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.

(aa) 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.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee:
(i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair

practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) 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.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) 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.

(kk) Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043.

(ll) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.

(mm) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons.

(nn) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety.

(oo) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310. If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which

shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this section as exempt from disclosure. If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality.

(pp) 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.

(qq) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units.

(rr) 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).

(ss) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law.

(tt) 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 liquor license, gambling license, or lottery retail license.

(uu) Records maintained by the employment security department and subject to chapter 50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes.

(vv) Individually identifiable information received by the work force training and education coordinating board for research or evaluation purposes.

(ww) 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:

(i) 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

(ii) 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.

(xx) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data. However, this information may be released to

government agencies concerned with the management of fish and wildlife resources.

(yy) Sensitive wildlife data obtained by the department of fish and wildlife. However, sensitive wildlife data may be released to government agencies concerned with the management of fish and wildlife resources. Sensitive wildlife data includes:

(i) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(ii) Radio frequencies used in, or locational data generated by, telemetry studies; or

(iii) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(A) The species has a known commercial or black market value;

(B) There is a history of malicious take of that species; or

(C) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

(zz) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag. However, the department of fish and wildlife may disclose personally identifying information to:

(i) Government agencies concerned with the management of fish and wildlife resources;

(ii) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(iii) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040.

(aaa)(i) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have not been commingled with other recorded documents. These records will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding that veteran's general power of attorney, or to anyone else designated in writing by that veteran to receive the records.

(ii) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have been commingled with other records, if the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor. If such a request has been recorded, these records may be released only to the veteran filing the papers, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iii) Discharge papers of a veteran filed at the office of the county auditor after June 30, 2002, are not public records, but will be available only to the

veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iv) For the purposes of this subsection (1)(aaa), next of kin of deceased veterans have the same rights to full access to the record. Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister.

(bbb) 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, 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 or any individual's safety.

(ccc) Information compiled by school districts or schools in the development of their comprehensive safe school plans pursuant to RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school.

(ddd) 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.

(eee) 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.

(fff) Proprietary data, trade secrets, or other information that relates to: (i) A vendor's unique methods of conducting business; (ii) data unique to the product or services of the vendor; or (iii) 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.

(ggg) 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.— RCW (sections 1 through 8 of this act), to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in

which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Sec. 17. RCW 42.17.2401 and 2001 c 36 s 1 and 2001 c 9 s 1 are each reenacted and amended to read as follows:

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the Washington basic health plan, the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of community, trade, and economic development, the secretary of corrections, the director of ecology, the commissioner of employment security, the (~~chairman~~) chair of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the director of the interagency committee for outdoor recreation, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, board of trustees of each community college, each member of the state board for community and technical colleges, state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund

authority board of trustees, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, interagency committee for outdoor recreation, state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, marine oversight board, Pacific Northwest electric power and conservation planning council, parks and recreation commission, personnel appeals board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearing board, public employees' benefits board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

Sec. 18. RCW 43.79A.040 and 2004 c 246 s 8 and 2004 c 58 s 10 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.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and fire fighters'

plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, ~~((and))~~ the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), and the life sciences discovery fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 19. CAPTIONS. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 20. LIBERAL CONSTRUCTION. This act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed.

NEW SECTION. Sec. 21. CODIFICATION. Sections 1 through 8 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 22. 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. 23. EXPIRATION DATES. Section 15 of this act expires June 30, 2005.

NEW SECTION. Sec. 24. EFFECTIVE DATE. 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, except for section 16 of this act, which takes effect June 30, 2005.

Passed by the Senate April 23, 2005.

Passed by the House April 16, 2005.

Approved by the Governor May 12, 2005.

Filed in Office of Secretary of State May 12, 2005.

CHAPTER 425

[Engrossed Substitute House Bill 1903]

JOB DEVELOPMENT FUND

AN ACT Relating to creating a job development fund; amending RCW 43.155.050; adding new sections to chapter 43.160 RCW; 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 has and continues to recognize the vital importance of economic development to the health and prosperity of Washington state as indicated in RCW 43.160.010, 43.155.070(4)(g), 43.163.005, and 43.168.010. The legislature finds that current economic development programs and funding, which are primarily low-interest loan programs, can be enhanced by creating a grant program to assist with public infrastructure projects that directly stimulate community and economic development by supporting the creation of new jobs or the retention of existing jobs.

NEW SECTION. Sec. 2. A new section is added to chapter 43.160 RCW to read as follows:

(1) The job development fund program is created to provide grants for public infrastructure projects that will stimulate job creation or assist in job retention. The program is to be administered by the board. The board shall establish a competitive process to request and prioritize proposals and make grant awards.

(2) For the purposes of this act, "public infrastructure projects" has the same meaning as "public facilities" as defined in RCW 43.160.020(11).

(3) The board shall conduct a statewide request for project applications. The board shall apply the following criteria for evaluation and ranking of applications:

(a) The relative benefits provided to the community by the jobs the project would create, including, but not limited to: (i) The total number of jobs; (ii) the total number of full-time, family wage jobs; (iii) the unemployment rate in the area; and (iv) the increase in employment in comparison to total community population;

(b) The present level of economic activity in the community and the existing local financial capacity to increase economic activity in the community;

(c) The rate of return of the state's investment, that includes the expected increase in state and local tax revenues associated with the project;

(d) The lack of another timely source of funding available to finance the project which would likely prevent the proposed community or economic development, absent the financing available under this act;

(e) The ability of the project to improve the viability of existing business entities in the project area;

(f) Whether or not the project is a partnership of multiple jurisdictions;

(g) Demonstration that the requested assistance will directly stimulate community and economic development by facilitating the creation of new jobs or the retention of existing jobs; and

(h) The availability of existing assets that applicants may apply to projects.

(4) Job development fund program grants may only be awarded to those applicants that have entered into or expect to enter into a contract with a private

developer relating to private investment that will result in the creation or retention of jobs upon completion of the project. Job development fund program grants shall not be provided for any project where:

(a) The funds will not be used within the jurisdiction or jurisdictions of the applicants; or

(b) Evidence exists that the project would result in a development or expansion that would displace existing jobs in any other community in the state.

(5) The board shall, with the joint legislative audit and review committee, develop performance criteria for each grant and evaluation criteria to be used to evaluate both how well successful applicants met the community and economic development objectives stated in their applications, and how well the job development fund program performed in creating and retaining jobs.

NEW SECTION. Sec. 3. A new section is added to chapter 43.160 RCW to read as follows:

The maximum grant from the job development fund for any one project is ten million dollars. Grant assistance from the job development fund may not exceed thirty-three percent of the total cost of the project. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

Sec. 4. RCW 43.155.050 and 2001 c 131 s 2 are each amended to read as follows:

(1) The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans.

(2) The job development fund is hereby established in the state treasury. Up to fifty million dollars each biennium from the public works assistance account may be transferred into the job development fund. Money in the job development fund may be used solely for job development fund program grants, administrative expenses related to the administration of the job development fund program created in section 2 of this act, and for the report prepared by the joint legislative audit and review committee pursuant to section 5(2) of this act. Moneys in the job development fund may be spent only after appropriation. The board shall prepare a prioritized list of proposed projects of up to fifty million dollars as part of the department's 2007-09 biennial budget request. The board may provide an additional alternate job development fund project list of up to ten million dollars. The legislature may remove projects from the list

recommended by the board. The legislature may not change the prioritization of projects recommended for funding by the board, but may add projects from the alternate list in order of priority, as long as the total funding does not exceed fifty million dollars.

NEW SECTION. Sec. 5. (1) The joint legislative audit and review committee shall conduct an inventory of all state public infrastructure programs and funds. The inventory shall identify: The public infrastructure state programs and funds and the purposes each serve; how the program or fund is implemented; the types of public infrastructure projects supported by the program or fund; the dollar amount of the projects funded by each program or fund; the balance of a fund, if applicable; and the geographic distribution of projects supported by a program or fund. Where applicable, the inventory shall identify overlaps or gaps in types of public infrastructure projects supported through state programs or funds. Where appropriate, the inventory shall evaluate the return on investment for economic development infrastructure programs. The inventory shall be delivered to the appropriate committees of the legislature by December 1, 2006.

(2) By September 1, 2010, the joint legislative audit and review committee shall submit a report on the outcomes of the job development fund program to the appropriate committees of the legislature. The report shall apply the performance and evaluation criteria developed by the community economic revitalization board and the committee and shall include a project by project review detailing how the funds were used and whether the performance measures were met. The report shall also include impacts to the availability of low-interest and interest-free loans to local governments under RCW 43.155.055, 43.155.060, 43.155.065, and 43.155.068, resulting from appropriations to the job development fund. Information in the report shall include, but not be limited to:

(a) The total funds appropriated from the public works assistance account to the job development account;

(b) The ratio of loan requests submitted to the public works board as compared to actual money available for loans in the public works assistance account since the effective date of this act;

(c) The total amount that would have been available for loans from the public works assistance account had this act not taken effect;

(d) Identification of specific loan requests that would have qualified for funding under chapter 43.155 RCW had money been available in the public works assistance account;

(e) Assessment of increased costs for otherwise qualifying projects where local governments were compelled to seek alternate funding sources.

NEW SECTION. Sec. 6. This act expires June 30, 2011.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House April 22, 2005.

Passed by the Senate April 22, 2005.

Approved by the Governor May 12, 2005.

Filed in Office of Secretary of State May 12, 2005.

CHAPTER 426

[House Bill 1254]

LICENSE PLATES—SHARE THE ROAD

AN ACT Relating to the "share the road" special license plate to commemorate Cooper Jones; amending RCW 46.16.333; reenacting and amending RCW 46.16.313 and 43.59.150; adding new sections to chapter 46.16 RCW; 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:

NEW SECTION. Sec. 1. A new section is added to chapter 46.16 RCW to read as follows:

(1) The legislature recognizes that the "Share the Road" license plate has been reviewed by the special license plate review board under RCW 46.16.725, and found to fully comply with RCW 46.16.715 through 46.16.775.

(2) The department shall issue a special license plate displaying a symbol or artwork, approved by the special license plate review board and the legislature, recognizing an organization that promotes bicycle safety and awareness education. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special plates will commemorate the life of Cooper Jones.

NEW SECTION. Sec. 2. A new section is added to chapter 46.04 RCW to read as follows:

"Share the Road license plates" means license plates that commemorate the life of Cooper Jones and display a symbol of an organization that promote bicycle safety and awareness education in communities throughout Washington.

Sec. 3. RCW 46.16.313 and 2004 c 221 s 3, 2004 c 48 s 3, and 2004 c 35 s 3 are each reenacted and amended to read as follows:

(1) The department may establish a fee of no more than forty dollars for each type of special license plates issued under RCW 46.16.301(1) (a), (b), or (c), as existing before amendment by section 5, chapter 291, Laws of 1997, in an amount calculated to offset the cost of production of the special license plates and the administration of this program. This fee is in addition to all other fees required to register and license the vehicle for which the plates have been requested. All such additional special license plate fees collected by the department shall be deposited in the state treasury and credited to the motor vehicle fund.

(2) In addition to all fees and taxes required to be paid upon application and registration of a motor vehicle, the holder of a collegiate license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying

detailed report. The state treasurer shall credit the funds to the appropriate collegiate license plate fund as provided in RCW 28B.10.890.

(3) In addition to all fees and taxes required to be paid upon renewal of a motor vehicle registration, the holder of a collegiate license plate shall pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the funds to the appropriate collegiate license plate fund as provided in RCW 28B.10.890.

(4) In addition to all fees and taxes required to be paid upon application and registration of a motor vehicle, the holder of a special baseball stadium license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds, minus the cost of plate production, shall 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.

(5) In addition to all fees and taxes required to be paid upon renewal of a motor vehicle registration, the holder of a special baseball stadium license plate shall pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall 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.

(6) Effective with vehicle registrations due or to become due on January 1, 2005, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a professional fire fighters and paramedics license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, 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 professional fire fighters and paramedics license plates. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Washington State Council of Fire Fighters benevolent fund established under RCW 46.16.30902.

(7) Effective with annual renewals due or to become due on January 1, 2006, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a professional fire fighters and paramedics license plate shall, upon application, pay a fee of thirty dollars. The department

shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, 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 professional fire fighters and paramedics special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Washington State Council of Fire Fighters benevolent fund established under RCW 46.16.30902.

(8) Effective with vehicle registrations due or to become due on November 1, 2004, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Helping Kids Speak" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, 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 "Helping Kids Speak" special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Helping Kids Speak" account established under RCW 46.16.30904.

(9) Effective with annual renewals due or to become due on November 1, 2005, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Helping Kids Speak" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, 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 "Helping Kids Speak" special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Helping Kids Speak" account established under RCW 46.16.30904.

(10) Effective with vehicle registrations due or to become due on January 1, 2005, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "law enforcement memorial" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, 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 law enforcement memorial special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the

proceeds to the law enforcement memorial account established under RCW 46.16.30906.

(11) Effective with annual renewals due or to become due on January 1, 2006, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "law enforcement memorial" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, 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 law enforcement memorial special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the law enforcement memorial account established under RCW 46.16.30906.

(12)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Share the Road" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, 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 "Share the Road" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Share the Road" account established under section 4 of this act.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Share the Road" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, 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 "Share the Road" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Share the Road" account established under section 4 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 46.16 RCW to read as follows:

(1) The "Share the Road" account is created in the custody of the state treasurer. Upon the department's determination that the state had been reimbursed for the cost of implementing the "Share the Road" special license plate, all receipts, except as provided in RCW 46.16.313(12) (a) and (b), from "Share the Road" license plates must be deposited into the account. Only the

director of the department of licensing 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) Funds in the account must be disbursed subject to the following conditions and limitations:

(a) Under the requirements set out in RCW 46.16.765, the department must contract with a qualified nonprofit organization to promote bicycle safety and awareness education in communities throughout Washington.

(b) For the purpose of this section, a "qualified nonprofit organization" means a not-for-profit corporation incorporated and of tax exempt status under section 501(c)(3) of the federal internal revenue code. The organization must promote bicycle safety and awareness education in communities throughout Washington.

(c) The qualified nonprofit organization must meet all requirements set out in RCW 46.16.765.

Sec. 5. RCW 46.16.333 and 2002 c 264 s 3 are each amended to read as follows:

In cooperation with the Washington state patrol and the department of licensing, the traffic safety commission shall create and design, and the department shall issue, Cooper Jones license plate emblems displaying a symbol of bicycle safety that may be used on motor vehicles required to display two motor vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. These license plate emblems will fund the Cooper Jones act and provide funding for bicyclist and pedestrian safety education, enforcement, and encouragement.

Any person may purchase Cooper Jones license plate emblems. The emblems are to be displayed on the vehicle license plates in the manner described by the department, existing vehicular licensing procedures, and current laws. The fee for Cooper Jones emblems shall be twenty-five dollars. All moneys collected shall first go to the department to be deposited into the motor vehicle fund until all expenses of designing and producing the emblems are recovered. Thereafter, the department shall deduct an amount not to exceed five dollars of each fee collected for Cooper Jones emblems for administration and collection expenses. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the proceeds to the ~~((bicycle and pedestrian safety account as established in RCW 43.59.150))~~ "Share the Road" account established under section 4 of this act.

Sec. 6. RCW 43.59.150 and 1999 c 372 s 9 and 1999 c 351 s 1 are each reenacted and amended to read as follows:

~~((+))~~ The Washington state traffic safety commission shall establish a program for improving bicycle and pedestrian safety, and shall cooperate with the stakeholders and independent representatives to form an advisory committee to develop programs and create public private partnerships which promote bicycle and pedestrian safety.

~~((2) The bicycle and pedestrian safety account is created in the state treasury to support bicycle and pedestrian education or safety programs.))~~

NEW SECTION. **Sec. 7.** Section 6 of this act takes effect June 30, 2007.

Passed by the House April 20, 2005.

Passed by the Senate April 8, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 427

[Second Substitute Senate Bill 5370]

ECONOMIC DEVELOPMENT STRATEGIC RESERVE ACCOUNT

AN ACT Relating to the economic development strategic reserve account; amending RCW 67.70.190; and adding a new section to chapter 43.330 RCW.

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:

(1) The economic development strategic reserve account is created in the state treasury to be used only for the purposes of this section.

(2) Only the governor, with the recommendation of the director of the department of community, trade, and economic development and the economic development commission, may authorize expenditures from the account.

(3) Expenditures from the account shall be made in an amount sufficient to fund a minimum of one staff position for the economic development commission and to cover any other operational costs of the commission.

(4) Expenditures from the account may be made to prevent closure of a business or facility, to prevent relocation of a business or facility in the state to a location outside the state, or to recruit a business or facility to the state. Expenditures may be authorized for:

(a) Work force development;

(b) Public infrastructure needed to support or sustain the operations of the business or facility; and

(c) Other lawfully provided assistance, including, but not limited to, technical assistance, environmental analysis, relocation assistance, and planning assistance. Funding may be provided for such assistance only when it is in the public interest and may only be provided under a contractual arrangement ensuring that the state will receive appropriate consideration, such as an assurance of job creation or retention.

(5) The funds shall not be expended from the account unless:

(a) The circumstances are such that time does not permit the director of the department of community, trade, and economic development or the business or facility to secure funding from other state sources;

(b) The business or facility produces or will produce significant long-term economic benefits to the state, a region of the state, or a particular community in the state;

(c) The business or facility does not require continuing state support;

(d) The expenditure will result in new jobs, job retention, or higher incomes for citizens of the state;

(e) The expenditure will not supplant private investment; and

(f) The expenditure is accompanied by private investment.

(6) No more than three million dollars per year may be expended from the account for the purpose of assisting an individual business or facility pursuant to the authority specified in this section.

(7) If the account balance in the strategic reserve account exceeds fifteen million dollars at any time, the amount in excess of fifteen million dollars shall be transferred to the education construction account.

Sec. 2. RCW 67.70.190 and 1994 c 218 s 5 are each amended to read as follows:

Unclaimed prizes shall be retained in the state lottery account for the person entitled thereto for one hundred eighty days after the drawing in which the prize is won, or after the official end of the game for instant prizes. If no claim is made for the prize within this time, all rights to the prize shall be extinguished, and the prize shall be retained in the state lottery fund for further use as prizes, ((and all rights to the prize shall be extinguished)) except that one-third of all unclaimed prize money shall be deposited in the economic development strategic reserve account created in section 1 of this act.

Passed by the Senate April 22, 2005.

Passed by the House April 22, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 428

[Substitute House Bill 1823]

UNDERSERVED RURAL COMMUNITIES—UNDERGROUND STORAGE TANKS

AN ACT Relating to assisting the economic development of underserved rural communities by assisting an owner or operator that has discontinued using an underground petroleum storage tank; amending RCW 70.148.120 and 70.148.130; making an appropriation; and providing an expiration date.

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

Sec. 1. RCW 70.148.120 and 1991 c 4 s 1 are each amended to read as follows:

The legislature recognizes as a fundamental government purpose the need to protect the environment and human health and safety. To that end the state has enacted laws designed to limit and prevent environmental damage and risk to public health and safety caused by underground petroleum storage tank leaks. Because of the costs associated with compliance with such laws and the high costs associated with correcting past environmental damage, many owners and operators of underground petroleum storage tanks have discontinued the use of or have planned to discontinue the use of such tanks. As a consequence, isolated communities face the loss of their source of motor vehicle fuel and face the risk that the owner or operator will have insufficient funds to take corrective action for pollution caused by past leaks from the tanks. In particular, rural communities face the risk that essential emergency, medical, fire and police services may be disrupted through the diminution or elimination of local sellers of petroleum products and by the closure of underground storage tanks owned by local government entities serving these communities.

The legislature also recognizes as a fundamental government purpose the need to preserve a minimum level of economic viability in rural communities so that public revenues generated from economic activity are sufficient to sustain necessary governmental functions. The closing of local service stations adversely affects local economies by reducing or eliminating reasonable access to fuel for agricultural, commercial, recreational, and transportation needs.

The legislature intends to assist small communities within this state by authorizing:

(1) Cities, towns, and counties to certify that a local private owner or operator of an underground petroleum storage tank meets a vital local government, public health or safety need thereby qualifying the owner or operator for state financial assistance in complying with environmental regulations and assistance in taking needed corrective action for existing tank leaks; and

(2) Local government entities to obtain state financial assistance to bring local government underground petroleum storage tanks into compliance with environmental regulations and to take needed corrective action for existing tank leaks.

Sec. 2. RCW 70.148.130 and 1991 c 4 s 2 are each amended to read as follows:

(1) Subject to the conditions and limitations of RCW 70.148.120 through 70.148.170, the director shall establish and manage a program for providing financial assistance to public and private owners and operators of underground storage tanks who have been certified by the governing body of the county, city, or town in which the tanks are located as meeting a vital local government, public health or safety need. In providing such financial assistance the director shall:

(a) Require owners and operators, including local government owners and operators, to demonstrate serious financial hardship;

(b) Limit assistance to only that amount necessary to supplement applicant financial resources;

(c) Limit assistance to no more than ~~((one))~~ two hundred ~~((fifty))~~ thousand dollars in value for any one underground storage tank site of which amount no more than seventy-five thousand dollars in value may be provided for corrective action; and

(d) Whenever practicable, provide assistance through the direct payment of contractors and other professionals for labor, materials, and other services.

(2)(a) Except as otherwise provided in RCW 70.148.120 through 70.148.170, no grant of financial assistance may be used for any purpose other than for corrective action and repair, replacement, reconstruction, and improvement of underground storage tanks and tank sites. If at any time prior to providing financial assistance or in the course of providing such assistance, it appears to the director that corrective action costs may exceed seventy-five thousand dollars, the director may not provide further financial assistance until the owner or operator has developed and implemented a corrective action plan with the department of ecology.

(b) A grant of financial assistance may also be made to an owner or operator that has discontinued using underground petroleum storage tanks due to

economic hardship. An owner or operator may receive a grant up to two hundred thousand dollars per retailing location if:

- (i) The property is located in an underserved rural area;
- (ii) The property was previously used by a private owner or operator to provide motor vehicle fuel; and
- (iii) The property is at least ten miles from the nearest motor vehicle fuel service station.

(3) When requests for financial assistance exceed available funds, the director shall give preference to providing assistance first to those underground storage tank sites which constitute the sole source of petroleum products in remote rural communities.

(4) The director shall consult with the department of ecology in approving financial assistance for corrective action to ensure compliance with regulations governing underground petroleum storage tanks and corrective action.

(5) The director shall approve or disapprove applications for financial assistance within sixty days of receipt of a completed application meeting the requirements of RCW 70.148.120 through 70.148.170. The certification by local government of an owner or operator shall not preclude the director from disapproving an application for financial assistance if the director finds that such assistance would not meet the purposes of RCW 70.148.120 through 70.148.170.

(6) The director may adopt all rules necessary to implement the financial assistance program and shall consult with the technical advisory committee established under RCW 70.148.030 in developing such rules and in reviewing applications for financial assistance.

****NEW SECTION. Sec. 3. The sum of one million dollars, or as much thereof as may be necessary, may be expended from the pollution liability insurance program trust account for the biennium year ending July 1, 2007, to carry out the purposes of RCW 70.148.130(2)(b). The director or director's designee shall administer the distribution of these funds. A maximum of ten percent of the funds appropriated may be used for administrative costs associated with the program.***

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

NEW SECTION. Sec. 4. Sections 1 and 2 of this act expire June 1, 2007.

Passed by the House March 10, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 13, 2005, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2005.

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

"I am returning, without my approval as to Section 3, Substitute House Bill No. 1823 entitled:

"AN ACT Relating to assisting the economic development of undeserved rural communities by assisting an owner or operator that has discontinued using an underground petroleum storage tank."

This bill provides financial assistance grants to operators who have discontinued using underground storage tanks. Rural Washingtonians often drive long distances to refuel their vehicles, and I can appreciate the hardship that results from the closure of gas stations in remote areas of our state. Section 3 of the bill would authorize the Pollution Liability Insurance Agency to expend one million

dollars during the 2005-07 Biennium for a financial assistance grant program, and would cap administrative costs at ten percent of the funds appropriated. The agency already has authority to expend non-appropriated funds for the grant program, so this section is not necessary. Further, since no funds have been appropriated for the grant program, the wording of this language would effectively prohibit the agency from making any expenditure for grant administration. To fulfill the Legislature's intent regarding the size of this program and limits on administrative expenses, I hereby direct the agency to expend no more than one million dollars for the grant program during 2005-07, and to limit its administrative costs to no more than ten percent of grant expenditures.

For these reasons, I have vetoed Section 3 of Substitute House Bill No. 1823.

With the exception of Section 3, Substitute House Bill No. 1823 is approved."

CHAPTER 429

[Engrossed Substitute House Bill 1640]

MANUFACTURED/MOBILE HOME LANDLORD AND TENANT DISPUTES

AN ACT Relating to resolving manufactured/mobile home landlord and tenant disputes; amending RCW 59.22.050; creating new sections; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The legislature finds that there are factors unique to the relationship between a manufactured/mobile homeowner and a manufactured/mobile home park owner. Once occupancy has commenced, the difficulty and expense in moving and relocating a manufactured/mobile home can affect the operation of market forces, and lead to an inequality of the bargaining position of the parties. Once occupancy has commenced, a homeowner may be subject to violations of the manufactured/mobile home landlord-tenant act or unfair practices without a timely and cost-effective conflict resolution process. Although a homeowner, landlord, or park owner may take legal action as prescribed in the manufactured/mobile home landlord-tenant act, the judicial process is often time and cost prohibitive. This act is created for the purpose of protecting the public, fostering fair and honest competition, and regulating the factors unique to the relationship between the manufactured/mobile homeowner and park owner.

(2) The legislature finds that taking legal action against a park owner for violations of the manufactured/mobile home landlord-tenant act can be a costly and lengthy process, and that many people cannot afford to pursue a court process to vindicate statutory rights. Park owners similarly are impacted by legal fees and lengthy proceedings resulting from pursuing a remedy through the legal system and would also, therefore, benefit from having access to an appropriate, effective process that resolves disputes quickly and efficiently.

(3) Therefore, it is the intent of the legislature to provide a less costly and more efficient way for manufactured/mobile homeowners and park owners to resolve disputes, and to provide a mechanism for state authorities to quickly locate owners of manufactured housing communities. The legislature further intends to authorize the department of community, trade, and economic development to:

(a) Register mobile home parks or manufactured housing communities and report upon data to the appropriate committees of the legislature by December 31, 2005;

(b) Expand its current ombudsman program by hiring or contracting with additional persons to conduct a greater number of investigations of alleged violations of the manufactured/mobile home landlord-tenant act; and

(c) Collect and report upon data related to conflicts and violations to the appropriate committees of the legislature by December 31, 2005.

(4) If after receiving the reports under subsection (3) of this section, the legislature finds that the provisions of this act authorizing the department to register mobile/manufactured home communities, investigate complaints, clarify existing law, and work to resolve disputes in good faith voluntarily prove insufficient to adequately protect the rights and responsibilities of mobile home park tenants and owners, it is the intent of the legislature to find other methods for resolution in the future.

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

(1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Mobile home park" or "manufactured housing community" means any real property that is rented or held out for rent to others for the placement of two or more mobile homes, manufactured homes, or park models for the primary purpose of production of income, except when the real property is rented or held out for rent for seasonal recreational purposes only and is not intended for year-round occupancy.

(4) "Landlord" or "park owner" means the owner of a mobile home park or a manufactured housing community and includes the agents of the landlord.

(5) "Tenant" or "homeowner" means any person, except a transient, who rents or occupies a mobile home lot.

(6) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or part of the legal title to the real property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the real property.

(7) "Unfair practice" means any act that would constitute an unfair or deceptive act or practice under chapter 19.86 RCW.

(8) "Complainant" means a landlord, park owner, tenant, or homeowner, who has a complaint alleging an unfair practice or violation of chapter 59.20 RCW.

(9) "Respondent" means a landlord, park owner, tenant, or homeowner, alleged to have committed an unfair practice or violation of chapter 59.20 RCW.

NEW SECTION. Sec. 3. (1) A complainant shall have the right to file a complaint with the department alleging an unfair practice or a violation of chapter 59.20 RCW.

(2) The complainant must provide written notice to the respondent prior to notifying the department of an alleged violation of chapter 59.20 RCW or unfair practice. If the complaint is not remedied within the time frame provided by RCW 59.20.080 for tenant violations or 59.20.200 for landlord violations, the complainant may then file a complaint with the department.

(3) The department may:

(a) Investigate the alleged violations at its discretion upon receipt of a complaint alleging unfair practices or violations of chapter 59.20 RCW;

(b) Utilize investigative ombudsman staff or contractors to investigate and evaluate complaints alleging unfair practices or violations of chapter 59.20 RCW;

(c) Discuss the issues surrounding or relating to the complaint with the complainant, respondent, or any witnesses, either individually or jointly;

(d) Explain options available to the complainant or respondent, including the involvement of other agencies; and

(e) Negotiate an agreement that is agreed upon by both the complainant and the respondent.

(4) The department may require or permit any person to file a complaint or statement in writing or otherwise as the department determines, as to the facts and circumstances concerning a matter to be investigated.

(5) The department has the power to employ investigative, administrative, and clerical staff as necessary for administration of this act.

(6)(a) Complainants and respondents shall cooperate with the department in the course of an investigation by:

(i) Furnishing any papers or documents requested;

(ii) Furnishing in writing an explanation covering the matter contained in a complaint when requested by the department; and

(iii) Allowing authorized access to department representatives for inspection of mobile home parks/manufactured housing community facilities relevant to the alleged violation being investigated.

(b) Failure to cooperate with the department in the course of an investigation is a violation of this act.

(7) After the department has completed its investigation and other duties, the department shall compile a written report documenting the process and resolution of the complaint investigation. Under no circumstances shall the department make or issue any finding, conclusion, decision, or ruling on whether there was a violation of chapter 59.20 or 19.86 RCW.

(8) By December 31, 2005, the department shall submit a summary report of its activities under this act during the period after the effective date of this act, through December 31, 2005, to the house of representatives housing committee and the senate committee on financial institutions, housing and consumer protection, including:

(a) The number of complaints received;

(b) The nature and extent of the complaints received;

(c) The actions taken on each complaint by the department;

(d) Recommendations on what further changes in law are necessary to resolve disputes;

(e) Recommendations on changes to the department's ombudsman and investigative programs;

(f) Recommendations on resources necessary to retain or improve the program; and

(g) Recommendations on whether a formal mobile/manufactured home landlord-tenant act enforcement and administrative hearing process should be adopted and how such a process should be structured.

(9) The department shall ensure that notice of the ombudsman complaint resolution program is given to each mobile/manufactured home landlord or park owner and each mobile home unit owner or tenant. The landlord shall post an easily visible notice in all common areas of mobile/manufactured home communities, including in each clubhouse, summarizing mobile home park tenant rights and responsibilities, in a style and format to be determined by the department, and including a toll-free telephone number that mobile home park owners and tenants can use to seek additional information and communicate complaints.

(10) This section is not exclusive and does not limit the right of landlords or tenants to take legal action against another party as provided in chapter 59.20 RCW or otherwise. Exhaustion of this ombudsman remedy process is not required before bringing legal action. This act is not subject to chapter 34.05 RCW. This section does not apply to unlawful detainer actions initiated under chapters 59.20, 59.12, and 59.18 RCW; however, a tenant is not precluded from seeking relief under this act if the complaint claims the notice of termination violates RCW 59.20.080. Filing a complaint with the department is not a defense nor shall it in any way delay or otherwise affect an unlawful detainer action. Department-written reports documenting the process and resolution of the complaint investigation, any written explanation covering the matter requested by the department, any other documents or papers requested or produced by the department, or any other record of the complaint may be admissible only for purposes of impeachment in any unlawful detainer or other administrative or legal action in regard to chapter 59.20 RCW.

NEW SECTION. Sec. 4. The director or individuals acting on the director's behalf are immune from suit in any action, civil or criminal, based upon any disciplinary actions or other official acts performed in the course of their duties under this act, except their intentional or willful misconduct.

NEW SECTION. Sec. 5. (1) All mobile home parks and manufactured housing communities must be registered with the department.

(2) To apply for registration, the owner of a mobile home park or manufactured housing community must file with the department an application for registration on a form prescribed by the department. The application must include, but is not limited to:

(a) The name and address of the owner of the mobile home park or manufactured housing community;

(b) The name and address of the mobile home park or manufactured housing community;

(c) The name and address of the manager of the mobile home park or manufactured housing community; and

(d) The number of lots within the mobile home park or manufactured housing community that are subject to chapter 59.20 RCW.

(3) Certificates of registration are effective on the date issued by the department.

NEW SECTION. Sec. 6. The department must:

(1) Compile the most accurate list possible of all the mobile home parks or manufactured housing communities in the state, the number of lots subject to chapter 59.20 RCW located in each mobile home park or manufactured housing

community, and the names and addresses of the owners of these parks. The department shall present this list to the house of representatives housing committee and the senate committee on financial institutions, housing and consumer protection by December 31, 2005. The department is encouraged to work with groups including, but not limited to: The office of community development, mobile homeowners' associations, tenant advocacy groups, park owners' associations, and county assessors to generate the list;

(2) Send out notifications to all known mobile home park owners or manufactured housing community owners regarding the due date of the assessment pursuant to section 7 of this act. These notifications must include information about late fees and passing costs on to tenants; and

(3) Collect the registration assessment due from all mobile home park owners or manufactured housing community owners, and allow ninety days to pass before sending notices of late fees to noncomplying owners as provided in this act.

NEW SECTION. Sec. 7. (1) The owner of each mobile home park or manufactured housing community shall pay to the department a registration assessment of five dollars for each mobile home or manufactured home that is subject to chapter 59.20 RCW within a park or community to fund the costs associated with administering this act. Manufactured housing community owners or mobile home park owners may pass on no more than two dollars and fifty cents of this assessment to tenants.

(2) If an owner fails to pay the assessment before the registration expiration date, a late fee shall be assessed at the prevailing interest rate for superior court civil judgments for each mobile home or manufactured home that is subject to chapter 59.20 RCW. The owner is not entitled to any reimbursement of this fee from the tenants.

NEW SECTION. Sec. 8. The manufactured/mobile home investigations account is created in the custody of the state treasurer. All receipts from assessments and fees collected under section 7 of this act must be deposited into the account. Expenditures from the account may be used only for the costs associated with administering this act. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 9. RCW 59.22.050 and 1991 c 327 s 3 are each amended to read as follows:

(1) In order to provide general assistance to mobile home resident organizations, park owners, and landlords and tenants, the department shall establish an office of mobile home affairs which will serve as the coordinating office within state government for matters relating to mobile homes or manufactured housing.

This office will provide an ombudsman service to mobile home park owners and mobile home tenants with respect to problems and disputes between park owners and park residents and to provide technical assistance to resident organizations or persons in the process of forming a resident organization pursuant to chapter 59.22 RCW. The office will keep records of its activities in this area.

(2) The office shall perform all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with this chapter and the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

(3) The office shall administer the mobile/manufactured home community registration program including the collection of assessments, associated late fees, and the compilation of data related to the number of communities and number of lots within the community that are subject to chapter 59.20 RCW.

(4) The office shall administer the mobile home relocation assistance program established in chapter 59.21 RCW, including verifying the eligibility of tenants for relocation assistance.

NEW SECTION. Sec. 10. Any amount assessed under section 7(2) of this act that remains uncollected on December 31, 2005, shall be collected under the terms of section 7 of this act as it existed before December 31, 2005.

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 12. Except for sections 10 and 13 of this act, this act expires December 31, 2005.

NEW SECTION. Sec. 13. Beginning in January 2006, the state treasurer shall transfer any funds remaining in the manufactured/mobile home investigations account under section 8 of this act to the mobile home affairs account under RCW 59.22.070 for the purposes under RCW 59.22.050. All funds collected by the department under section 10 of this act shall be transferred to the state treasurer for deposit into the mobile home affairs account.

Passed by the House April 19, 2005.

Passed by the Senate April 6, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 430

[Substitute House Bill 2156]

CHILDREN IN CHILD PROTECTIVE SERVICES—TASK FORCE

AN ACT Relating to dependency and termination of parental rights; 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) A joint task force on child safety for children in child protective services or child welfare services is established. The joint task force shall consist of the following members:

(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 of the house of representatives, appointed by the speaker of the house of representatives;

(c) A representative from the Washington council for prevention of child abuse and neglect;

(d) One representative from each of the four most recent child fatality review committees;

(e) The secretary of the department of social and health services or the secretary's designee;

(f) The executive director of the office of public defense or the executive director's designee;

(g) The director of the office of family and children's ombudsman or the director's designee;

(h) A representative of the Washington association of sheriffs and police chiefs;

(i) The secretary of the department of health or the secretary's designee;

(j) A representative of the office of attorney general;

(k) A representative of the superior court judges association;

(l) One representative each from social workers for child protective services and social workers for child welfare services, appointed by the secretary of the department of social and health services; and

(m) The following members, jointly appointed by the speaker of the house of representatives and the president of the senate:

(i) A representative from a statewide foster parents association and a foster parent not affiliated with the statewide foster parents association;

(ii) A representative from a statewide birth parent organization or a birth parent who has been involved in the child welfare system;

(iii) Two representatives of Washington state Indian tribes as defined under the federal Indian welfare act (25 U.S.C. Sec. 1901 et seq.); and

(iv) One representative each from two different organizations that primarily provide services to children and families involved with the child welfare system.

(2) Two of the legislative members shall serve as cochairs of the task force.

(3) The task force shall review and make recommendations to the legislature and the governor on improving the health, safety, and welfare of Washington children in child protective services or child welfare services. In preparing the recommendations, the committee shall, at a minimum, review the following issues:

(a) State and federal statutes regarding child safety, placement, removal from the home, termination of parental rights, and reunification with parents;

(b) Current and ongoing department of social and health services work groups or work plans regarding child safety, placement, removal from the home, termination of parental rights, and reunification with parents;

(c) The purpose and value of child protection teams and determine whether any changes should be made;

(d) Best practices regarding children removed from parents at birth and placed in out-of-home care, transition services for families with children in out-of-home placement for an extended period of time, and standards for return to home placement when a child has been placed out-of-home including situations where a child has been placed out-of-home and returned to home multiple times;

(e) The training that is offered to social workers regarding child development and determine whether any changes should be made;

(f) Best practices regarding sharing of accurate, complete, and relevant medical, mental health, and substance abuse information between case workers,

supervisors, the courts, child protection teams, counsel, guardians, parents, and other relevant participants in child placement decisions;

(g) Best practices for assessing and addressing chemical dependency issues of parents;

(h) The effectiveness of current home-based service providers currently used and determine whether any changes should be made;

(i) Best practices addressing family cultural and tribal issues and the role, if any, of social worker training or bias in safety assessment and placement decisions; and

(j) Other issues deemed relevant to improving child safety outcomes.

(4) The task force, where feasible, may consult with individuals from the public and private sector.

(5) The task force shall use legislative facilities and staff from senate committee services and the house office of program research.

(6) The task force shall report its preliminary findings and recommendations to the legislature by December 31, 2005, and a final report on its findings and recommendations by September 1, 2006.

NEW SECTION. Sec. 2. This act expires October 1, 2006.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 18, 2005.

Passed by the Senate April 19, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 431

[Substitute House Bill 1478]

FAILURE TO SECURE A LOAD

AN ACT Relating to securing vehicle loads on public highways; amending RCW 46.61.655 and 46.63.020; and prescribing penalties.

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

Sec. 1. RCW 46.61.655 and 1990 c 250 s 56 are each amended to read as follows:

(1) No vehicle shall be driven or moved on any public highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction. ~~((Any person operating a vehicle from which any glass or objects have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon such public highway shall immediately cause the public highway to be cleaned of all such glass or objects and shall pay any costs therefor.))~~

(2) No person may operate on any public highway any vehicle with any load unless the load and such covering as required thereon by subsection (3) of this section is securely fastened to prevent the covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

(3) Any vehicle operating on a paved public highway with a load of dirt, sand, or gravel susceptible to being dropped, spilled, leaked, or otherwise escaping therefrom shall be covered so as to prevent spillage. Covering of such loads is not required if six inches of freeboard is maintained within the bed.

(4)(a) Any person operating a vehicle from which any glass or objects have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon such public highway shall immediately cause the public highway to be cleaned of all such glass or objects and shall pay any costs therefor.

(b) Any vehicle with deposits of mud, rocks, or other debris on the vehicle's body, fenders, frame, undercarriage, wheels, or tires shall be cleaned of such material before the operation of the vehicle on a paved public highway.

(5) The state patrol may make necessary rules to carry into effect the provisions of this section, applying such provisions to specific conditions and loads and prescribing means, methods, and practices to effectuate such provisions.

(6) Nothing in this section may be construed to prohibit a public maintenance vehicle from dropping sand on a highway to enhance traction, or sprinkling water or other substances to clean or maintain a highway.

(7)(a)(i) A person is guilty of failure to secure a load in the first degree if he or she, with criminal negligence, fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1), (2), or (3) of this section and causes substantial bodily harm to another.

(ii) Failure to secure a load in the first degree is a gross misdemeanor.

(b)(i) A person is guilty of failure to secure a load in the second degree if he or she, with criminal negligence, fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1) or (2) of this section and causes damage to property of another.

(ii) Failure to secure a load in the second degree is a misdemeanor.

(c) A person who fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1), (2), or (3) of this section is guilty of an infraction if such failure does not amount to a violation of (a) or (b) of this subsection.

Sec. 2. RCW 46.63.020 and 2004 c 95 s 14 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to initial registration of motor vehicles;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381(2) relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.410 relating to the violation of restrictions of an occupational or temporary restricted driver's license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;

(18) RCW 46.25.170 relating to commercial driver's licenses;

(19) Chapter 46.29 RCW relating to financial responsibility;

(20) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(21) RCW 46.37.435 relating to wrongful installation of sunscreening material;

(22) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

(23) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

(24) RCW 46.48.175 relating to the transportation of dangerous articles;

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

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

(27) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

(28) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

(29) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

(30) RCW 46.55.035 relating to prohibited practices by tow truck operators;

(31) RCW 46.61.015 relating to obedience to police officers, flaggers, or fire fighters;

(32) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

(33) RCW 46.61.022 relating to failure to stop and give identification to an officer;

(34) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

(35) RCW 46.61.500 relating to reckless driving;

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

(37) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

(38) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

(39) RCW 46.61.522 relating to vehicular assault;

(40) RCW 46.61.5249 relating to first degree negligent driving;

(41) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

(42) RCW 46.61.530 relating to racing of vehicles on highways;

(43) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;

(44) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

~~((44))~~ (45) RCW 46.61.740 relating to theft of motor vehicle fuel;

~~((45))~~ (46) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((46))~~ (47) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((47))~~ (48) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((48))~~ (49) RCW 46.68.010 relating to false statements made to obtain a refund;

~~((49))~~ (50) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

~~((50))~~ (51) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((51))~~ (52) RCW 46.72A.060 relating to limousine carrier insurance;

~~((52))~~ (53) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

~~((53))~~ (54) RCW 46.72A.080 relating to false advertising by a limousine carrier;

~~((54))~~ (55) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((55))~~ (56) Chapter 46.82 RCW relating to driver's training schools;

~~((56))~~ (57) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

~~((57))~~ (58) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

Passed by the House April 19, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 13, 2005.
 Filed in Office of Secretary of State May 13, 2005.

CHAPTER 432

[House Bill 1034]

INSURANCE—ADMINISTRATIVE SUPERVISION

AN ACT Relating to the administrative supervision of financially distressed insurers; amending RCW 48.31.020 and 48.31.115; and adding new sections to chapter 48.31 RCW.

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

Sec. 1. RCW 48.31.020 and 1998 c 284 s 8 are each amended to read as follows:

(1) For the purposes of this chapter, other than as to RCW 48.31.010, and in addition to persons included under RCW 48.99.010, the term "insurer" shall be deemed to include an insurer authorized under chapter 48.05 RCW, an insurer or institution holding a certificate of exemption under RCW 48.38.010, a health care service contractor registered under chapter 48.44 RCW, and a health maintenance organization registered under chapter 48.46 RCW, as well as all persons engaged as, or purporting to be engaged as insurers, institutions issuing charitable gift annuities, health care service contractors, or health maintenance organizations in this state, and to persons in process of organization to become insurers, institutions issuing charitable gift annuities, health care service contractors, or health maintenance organizations.

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

(a) "Exceeded its powers" means the following conditions:

(i) The insurer has refused to permit examination of its books, papers, accounts, records, or affairs by the commissioner, his or her deputies, employees, or duly commissioned examiners as required by this title or any rules adopted by the commissioner;

(ii) A domestic insurer has unlawfully removed from this state books, papers, accounts, or records necessary for an examination of the insurer;

(iii) The insurer has failed to promptly comply with the filing of any applicable financial reports as required by this title or any rules adopted by the commissioner;

(iv) The insurer has neglected or refused to observe a lawful order of the commissioner to comply, within the time prescribed by law, with any prohibited deficiency in its applicable capital, capital stock, or surplus;

(v) The insurer is continuing to transact insurance or write business after its license has been revoked or suspended by the commissioner;

(vi) The insurer, by contract or otherwise, has unlawfully or has in violation of an order of the commissioner or with respect to a transaction to which the insurer has without first having obtained written approval of the commissioner if approval is required by law:

(A) Totally reinsured its entire outstanding business; or

(B) Merged or consolidated substantially its entire property or business with another insurer; or

(vii) The insurer engaged in any transaction in which it is not authorized to engage under this title or any rules adopted by the commissioner.

(b) "Consent" means agreement to administrative supervision by the insurer.

Sec. 2. RCW 48.31.115 and 1993 c 462 s 60 are each amended to read as follows:

(1) The persons entitled to protection under this section are:

(a) The commissioner and any other receiver or administrative supervisor responsible for conducting a delinquency proceeding under this chapter, including present and former commissioners, administrative supervisors, and receivers; and

(b) The commissioner's employees, meaning all present and former special deputies and assistant special deputies and special receivers and special administrative supervisors appointed by the commissioner and all persons whom the commissioner, special deputies, or assistant special deputies have employed to assist in a delinquency proceeding under this chapter. Attorneys, accountants, auditors, and other professional persons or firms who are retained as independent contractors, and their employees, are not considered employees of the commissioner for purposes of this section.

(2) The commissioner and the commissioner's employees are immune from suit and liability, both personally and in their official capacities, for a claim for damage to or loss of property or personal injury or other civil liability caused by or resulting from an alleged act or omission of the commissioner or an employee arising out of or by reason of his or her duties or employment. However, nothing in this subsection may be construed to hold the commissioner or an employee immune from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the commissioner or an employee.

(3) If a legal action is commenced against the commissioner or an employee, whether against him or her personally or in his or her official capacity, alleging property damage, property loss, personal injury, or other civil liability caused by or resulting from an alleged act or omission of the commissioner or an employee arising out of or by reason of his or her duties or employment, the commissioner and any employee shall be indemnified from the assets of the insurer for all expenses, attorneys' fees, judgments, settlements, decrees, or amounts due and owing or paid in satisfaction of or incurred in the defense of the legal action unless it is determined upon a final adjudication on the merits that the alleged act or omission of the commissioner or employee giving rise to the claim did not arise out of or by reason of his or her duties or employment, or was caused by intentional or willful and wanton misconduct.

(a) Attorneys' fees and related expenses incurred in defending a legal action for which immunity or indemnity is available under this section shall be paid from the assets of the insurer, as they are incurred, in advance of the final disposition of such action upon receipt of an undertaking by or on behalf of the commissioner or employee to repay the attorneys' fees and expenses if it is ultimately determined upon a final adjudication on the merits and that the commissioner or employee is not entitled to immunity or indemnity under this section.

(b) Any indemnification under this section is an administrative expense of the insurer.

(c) In the event of an actual or threatened litigation against the commissioner or an employee for which immunity or indemnity may be

available under this section, a reasonable amount of funds that in the judgment of the commissioner may be needed to provide immunity or indemnity shall be segregated and reserved from the assets of the insurer as security for the payment of indemnity until all applicable statutes of limitation have run or all actual or threatened actions against the commissioner or an employee have been completely and finally resolved, and all obligations of the insurer and the commissioner under this section have been satisfied.

(d) In lieu of segregation and reserving of funds, the commissioner may obtain a surety bond or make other arrangements that will enable the commissioner to secure fully the payment of all obligations under this section.

(4) If a legal action against an employee for which indemnity may be available under this section is settled before final adjudication on the merits, the insurer shall pay the settlement amount on behalf of the employee, or indemnify the employee for the settlement amount, unless the commissioner determines:

(a) That the claim did not arise out of or by reason of the employee's duties or employment; or

(b) That the claim was caused by the intentional or willful and wanton misconduct of the employee.

(5) In a legal action in which the commissioner is a defendant, that portion of a settlement relating to the alleged act or omission of the commissioner is subject to the approval of the court before which the delinquency proceeding is pending. The court may not approve that portion of the settlement if it determines:

(a) That the claim did not arise out of or by reason of the commissioner's duties or employment; or

(b) That the claim was caused by the intentional or willful and wanton misconduct of the commissioner.

(6) Nothing in this section removes or limits an immunity, indemnity, benefit of law, right, or defense otherwise available to the commissioner, an employee, or any other person, not an employee under subsection (1)(b) of this section, who is employed by or in the office of the commissioner or otherwise employed by the state.

(7)(a) Subsection (2) of this section applies to any suit based in whole or in part on an alleged act or omission that takes place on or after July 25, 1993.

(b) No legal action lies against the commissioner or an employee based in whole or in part on an alleged act or omission that took place before July 25, 1993, unless suit is filed and valid service of process is obtained within twelve months after July 25, 1993.

(c) Subsections (3), (4), and (5) of this section apply to a suit that is pending on or filed after July 25, 1993, without regard to when the alleged act or omission took place.

NEW SECTION. Sec. 3. (1) An insurer may be subject to administrative supervision by the commissioner if upon examination or at any other time the commissioner makes a finding that:

(a) The insurer's condition renders the continuance of its business financially hazardous to the public or to its insureds consistent with this title or any rules adopted by the commissioner;

(b) The insurer has or appears to have exceeded its powers granted under its certificate of authority and this title or any rules adopted by the commissioner;

(c) The insurer has failed to comply with the applicable provisions of Title 48 RCW or rules adopted by the commissioner such that its condition has or will render the continuance of its business financially hazardous to the public or to its insureds;

(d) The business of the insurer is being conducted fraudulently; or

(e) The insurer gives its consent.

(2) If the commissioner determines that the conditions set forth in subsection (1) of this section exist, the commissioner shall:

(a) Notify the insurer of his or her determination;

(b) Furnish to the insurer a written list of the requirements to abate this determination; and

(c) Notify the insurer that it is under the supervision of the commissioner and that the commissioner is applying and effectuating the provisions of this chapter. Action by the commissioner shall be subject to review pursuant to chapters 48.04 and 34.05 RCW.

(3) If placed under administrative supervision, the insurer has sixty days, or another period of time as designated by the commissioner, to comply with the requirements of the commissioner subject to the provisions of this chapter.

(4) If it is determined after notice and hearing that the conditions giving rise to the administrative supervision still exist at the end of the supervision period under subsection (3) of this section, the commissioner may extend the period.

(5) If it is determined that none of the conditions giving rise to the administrative supervision exist, or that the insurer has remedied the conditions that gave rise to the supervision, the commissioner shall release the insurer from supervision.

NEW SECTION. Sec. 4. (1) Except as set forth in this section, proceedings, hearings, notices, correspondence, reports, records, and other information in the possession of the commissioner relating to the supervision of any insurer under this chapter are confidential and are not subject to chapter 42.17 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action, except as provided by this section. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(2) The employees of the commissioner have access to these proceedings, hearings, notices, correspondence, reports, records, or information as permitted by the commissioner. Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner is permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (1) of this section.

(3) The commissioner may share the notices, correspondence, reports, records, or information with other state, federal, and international regulatory agencies, with the national association of insurance commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, if the commissioner determines that the disclosure is necessary or proper for the enforcement of the laws of this or another state of the United States, and provided that the recipient agrees to maintain the confidentiality of the documents, material, or other information. No waiver of

any applicable privilege or claim of confidentiality may occur as a result of the sharing of documents, materials, or other information under this subsection.

(4) The commissioner may open the proceedings or hearings or make public the notices, correspondence, reports, records, or other information if the commissioner deems that it is in the best interest of the public or in the best interest of the insurer or its insureds, creditors, or the general public. However, the determination of whether to disclose any confidential information at the public proceedings or hearings is subject to applicable law.

(5) This section does not apply to hearings, notices, correspondence, reports, records, or other information obtained upon the appointment of a receiver for the insurer by a court of competent jurisdiction.

NEW SECTION. Sec. 5. During the period of administrative supervision, the commissioner or the commissioner's designated appointee shall serve as the administrative supervisor. The commissioner shall establish standards and procedures that maintain reasonable and customary claims practices and otherwise provide for the orderly continuation of the insurer's operations and business. Considering these standards and procedures, the commissioner may provide that the insurer may not do any of the following things during the period of supervision, without the prior approval of the commissioner or the appointed administrative supervisor:

- (1) Dispose of, convey, or encumber any of its assets or its business in force;
- (2) Withdraw any of its bank accounts;
- (3) Lend any of its funds;
- (4) Invest any of its funds;
- (5) Transfer any of its property;
- (6) Incur any debt, obligation, or liability;
- (7) Merge or consolidate with another company;
- (8) Approve new premiums or renew any policies;
- (9) Enter into any new reinsurance contract or treaty;
- (10) Terminate, surrender, forfeit, convert, or lapse any insurance policy, certificate, or contract, except for nonpayment of premiums due;
- (11) Release, pay, or refund premium deposits; accrued cash or loan values; unearned premiums; or other reserves on any insurance policy, certificate, or contract;
- (12) Make any material change in management; or
- (13) Increase salaries and benefits of officers or directors or the preferential payment of bonuses, dividends, or other payments deemed preferential.

NEW SECTION. Sec. 6. During the period of administrative supervision the insurer may contest an action taken, proposed to be taken, or failed to be taken by the administrative supervisor specifying the manner wherein the action being complained of would not result in improving the condition of the insurer. Denial of the insurer's request upon reconsideration entitles the insurer to request a proceeding under chapters 48.04 and 34.05 RCW.

NEW SECTION. Sec. 7. RCW 48.31.020, 48.31.115, and sections 3 through 6, 8, and 10 of this act do not preclude the commissioner from initiating judicial proceedings to place an insurer in rehabilitation or liquidation proceedings or other delinquency proceedings, however designated under the laws of this state, regardless of whether the commissioner has previously

initiated administrative supervision proceedings under this chapter against the insurer.

NEW SECTION. Sec. 8. The commissioner may meet with the administrative supervisor appointed under this chapter and with the attorney or other representative of the administrative supervisor, without the presence of any other person, at the time of any proceeding or during the pendency of any proceeding held under authority of this chapter to carry out the commissioner's duties under this chapter or for the supervisor to carry out his or her duties under this chapter.

NEW SECTION. Sec. 9. An action or the failure to act by the commissioner is subject to chapters 48.04 and 34.05 RCW.

NEW SECTION. Sec. 10. The commissioner may adopt rules to implement and administer RCW 48.31.020, 48.31.115, and sections 3 through 8 of this act.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 12. Sections 3 through 10 of this act are each added to chapter 48.31 RCW.

Passed by the House April 18, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 432

[Substitute House Bill 1054]

UNIFORM ARBITRATION ACT

AN ACT Relating to the revised uniform arbitration act; amending RCW 3.46.150, 3.50.800, 3.50.805, 15.49.071, 35.20.010, 35.22.425, 35.23.555, 35.27.515, 35.30.100, 35A.11.200, 46.96.150, 49.66.090, 59.18.320, 59.18.330, 59.20.260, 59.20.270, and 70.87.205; adding a new chapter to Title 7 RCW; repealing RCW 7.04.010, 7.04.020, 7.04.030, 7.04.040, 7.04.050, 7.04.060, 7.04.070, 7.04.080, 7.04.090, 7.04.100, 7.04.110, 7.04.120, 7.04.130, 7.04.140, 7.04.150, 7.04.160, 7.04.170, 7.04.175, 7.04.180, 7.04.190, 7.04.200, 7.04.210, and 7.04.220; and providing an effective date.

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

NEW SECTION. Sec. 1. DEFINITIONS. The definitions set forth in this section apply throughout this chapter.

(1) "Arbitration organization" means a neutral association, agency, board, commission, or other entity that initiates, sponsors, or administers arbitration proceedings or is involved in the appointment of arbitrators.

(2) "Arbitrator" means an individual appointed to render an award in a controversy between persons who are parties to an agreement to arbitrate.

(3) "Authenticate" means:

(a) To sign; or

(b) To execute or adopt a record by attaching to or logically associating with the record, an electronic sound, symbol, or process with the intent to sign the record.

(4) "Court" means a court of competent jurisdiction in this state.

(5) "Knowledge" means actual knowledge.

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

(7) "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.

NEW SECTION. Sec. 2. NOTICE. Unless the parties to an agreement to arbitrate otherwise agree or except as otherwise provided in this chapter, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice. A person has notice if the person has knowledge of the notice or has received notice. A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such communications.

NEW SECTION. Sec. 3. WHEN CHAPTER APPLIES. (1) Before July 1, 2006, this chapter governs agreements to arbitrate entered into:

(a) On or after the effective date of this act; and

(b) Before the effective date of this act, if all parties to the agreement to arbitrate or to arbitration proceedings agree in a record to be governed by this chapter.

(2) On or after July 1, 2006, this chapter governs agreements to arbitrate even if the arbitration agreement was entered into before the effective date of this act.

(3) This chapter does not apply to any arbitration governed by chapter 7.06 RCW.

(4) This chapter does not apply to any arbitration agreement between employers and employees or between employers and associations of employees.

NEW SECTION. Sec. 4. EFFECT OF AGREEMENT TO ARBITRATE—NONWAIVABLE PROVISIONS. (1) Except as otherwise provided in subsections (2) and (3) of this section, the parties to an agreement to arbitrate or to an arbitration proceeding may waive or vary the requirements of this chapter to the extent permitted by law.

(2) Before a controversy arises that is subject to an agreement to arbitrate, the parties to the agreement may not:

(a) Waive or vary the requirements of section 5(1), 6(1), 8, 17 (1) or (2), 26, or 28 of this act;

(b) Unreasonably restrict the right under section 9 of this act to notice of the initiation of an arbitration proceeding;

(c) Unreasonably restrict the right under section 12 of this act to disclosure of any facts by a neutral arbitrator; or

(d) Waive the right under section 16 of this act of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under this chapter.

(3) The parties to an agreement to arbitrate may not waive or vary the requirements of this section or section 3 (1)(a) or (2), 7, 14, 18, 20 (3) or (4), 22, 23, 24, 25 (1) or (2), 29, 31, 50, or 51 of this act.

NEW SECTION. Sec. 5. APPLICATION TO COURT. (1) Except as otherwise provided in section 28 of this act, an application for judicial relief under this chapter must be made by motion to the court and heard in the manner and upon the notice provided by law or rule of court for making and hearing motions.

(2) Notice of an initial motion to the court under this chapter must be served in the manner provided by law for the service of a summons in a civil action unless a civil action is already pending involving the agreement to arbitrate.

NEW SECTION. Sec. 6. VALIDITY OF AGREEMENT TO ARBITRATE. (1) An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except upon a ground that exists at law or in equity for the revocation of contract.

(2) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

(3) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

(4) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

NEW SECTION. Sec. 7. MOTION TO COMPEL OR STAY ARBITRATION. (1) On motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement, the court shall order the parties to arbitrate if the refusing party does not appear or does not oppose the motion. If the refusing party opposes the motion, the court shall proceed summarily to decide the issue. Unless the court finds that there is no enforceable agreement to arbitrate, it shall order the parties to arbitrate. If the court finds that there is no enforceable agreement, it may not order the parties to arbitrate.

(2) On motion of a person alleging that an arbitration proceeding has been initiated or threatened but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate. If the court finds that there is no enforceable agreement, it may not order the parties to arbitrate.

(3) The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

(4) If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, a motion under this section must be filed in that court. Otherwise a motion under this section may be filed in any court as required by section 27 of this act.

(5) If a party files a motion with the court to order arbitration under this section, the court shall on just terms stay any judicial proceeding that involves a

claim alleged to be subject to the arbitration until the court renders a final decision under this section.

(6) If the court orders arbitration, the court shall on just terms stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may sever it and limit the stay to that claim.

NEW SECTION. Sec. 8. PROVISIONAL REMEDIES. (1) Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(2) After an arbitrator is appointed and is authorized and able to act, the arbitrator may issue such orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action. After an arbitrator is appointed and is authorized and able to act, a party to an arbitration proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or if the arbitrator cannot provide an adequate remedy.

(3) A motion to a court for a provisional remedy under subsection (1) or (2) of this section does not waive any right of arbitration.

NEW SECTION. Sec. 9. INITIATION OF ARBITRATION. (1) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by mail certified or registered, return receipt requested and obtained, or by service as authorized for the initiation of a civil action. The notice must describe the nature of the controversy and the remedy sought.

(2) Unless a person interposes an objection as to lack or insufficiency of notice under section 15(3) of this act not later than the commencement of the arbitration hearing, the person's appearance at the hearing waives any objection to lack of or insufficiency of notice.

NEW SECTION. Sec. 10. CONSOLIDATION OF SEPARATE ARBITRATION PROCEEDINGS. (1) Except as otherwise provided in subsection (3) of this section, upon motion of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if:

(a) There are separate agreements to arbitrate or separate arbitration proceedings between the same persons or one of them is a party to a separate agreement to arbitrate or a separate arbitration proceeding with a third person;

(b) The claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

(c) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and

(d) Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

(2) The court may order consolidation of separate arbitration proceedings as to certain claims and allow other claims to be resolved in separate arbitration proceedings.

(3) The court may not order consolidation of the claims of a party to an agreement to arbitrate that prohibits consolidation.

NEW SECTION. Sec. 11. APPOINTMENT OF ARBITRATOR—SERVICE AS A NEUTRAL ARBITRATOR. (1) If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method must be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on motion of a party to the arbitration proceeding, shall appoint the arbitrator. The arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or appointed under the agreed method.

(2) An arbitrator who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party may not serve as a neutral arbitrator.

NEW SECTION. Sec. 12. DISCLOSURE BY ARBITRATOR. (1) Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

(a) A financial or personal interest in the outcome of the arbitration proceeding; and

(b) An existing or past relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representatives, witnesses, or the other arbitrators.

(2) An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitration proceedings and to any other arbitrators any facts that the arbitrator learns after accepting appointment that a reasonable person would consider likely to affect the impartiality of the arbitrator.

(3) If an arbitrator discloses a fact required by subsection (1) or (2) of this section to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the disclosure, the objection may be a ground to vacate the award under section 23(1)(b) of this act.

(4) If the arbitrator did not disclose a fact as required by subsection (1) or (2) of this section, upon timely objection of a party, an award may be vacated under section 23(1)(b) of this act.

(5) An arbitrator appointed as a neutral who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is presumed to act with evident partiality under section 23(1)(b) of this act.

(6) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under section 23(1)(b) of this act.

NEW SECTION. Sec. 13. ACTION BY MAJORITY. If there is more than one arbitrator, the powers of the arbitrators must be exercised by a majority of them.

NEW SECTION. Sec. 14. IMMUNITY OF ARBITRATOR—COMPETENCY TO TESTIFY—ATTORNEYS' FEES AND COSTS. (1) An arbitrator or an arbitration organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.

(2) The immunity afforded by this section supplements any other immunity.

(3) If an arbitrator does not make a disclosure required by section 12 of this act, the nondisclosure does not cause a loss of immunity under this section.

(4) In any judicial, administrative, or similar proceeding, an arbitrator or representative of an arbitration organization is not competent to testify or required to produce records as to any statement, conduct, decision, or ruling occurring during the arbitration proceeding to the same extent as a judge of a court of this state acting in a judicial capacity. This subsection does not apply:

(a) To the extent necessary to determine the claim of an arbitrator or an arbitration organization or a representative of the arbitration organization against a party to the arbitration proceeding; or

(b) If a party to the arbitration proceeding files a motion to vacate an award under section 23(1) (a) or (b) of this act and establishes prima facie that a ground for vacating the award exists.

(5) If a person commences a civil action against an arbitrator, an arbitration organization, or a representative of an arbitration organization arising from the services of the arbitrator, organization, or representative or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify in violation of subsection (4) of this section, and the court decides that the arbitrator, arbitration organization, or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is incompetent to testify, the court shall award to the arbitrator, organization, or representative reasonable attorneys' fees and other reasonable expenses of litigation.

NEW SECTION. Sec. 15. ARBITRATION PROCESS. (1) The arbitrator may conduct the arbitration in such manner as the arbitrator considers appropriate so as to aid in the fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and to determine the admissibility, relevance, materiality, and weight of any evidence.

(2) The arbitrator may decide a request for summary disposition of a claim or particular issue by agreement of all interested parties or upon request of one party to the arbitration proceeding if that party gives notice to all other parties to the arbitration proceeding and the other parties have a reasonable opportunity to respond.

(3) The arbitrator shall set a time and place for a hearing and give notice of the hearing not less than five days before the hearing. Unless a party to the arbitration proceeding interposes an objection to lack of or insufficiency of notice not later than the commencement of the hearing, the party's appearance at

the hearing waives the objection. Upon request of a party to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced although a party who was duly notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to promptly conduct the hearing and render a timely decision.

(4) If an arbitrator orders a hearing under subsection (3) of this section, the parties to the arbitration proceeding are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

(5) If there is more than one arbitrator, all of them shall conduct the hearing under subsection (3) of this section; however, a majority shall decide any issue and make a final award.

(6) If an arbitrator ceases, or is unable, to act during the arbitration proceeding, a replacement arbitrator must be appointed in accordance with section 11 of this act to continue the hearing and to decide the controversy.

NEW SECTION. Sec. 16. REPRESENTATION BY LAWYER. A party to an arbitration proceeding may be represented by a lawyer.

NEW SECTION. Sec. 17. WITNESSES—SUBPOENAS—DEPOSITIONS—DISCOVERY. (1) An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena must be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

(2) On request of a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of any witness, including a witness who cannot be subpoenaed for or is unable to attend a hearing, to be taken under conditions determined by the arbitrator for use as evidence in order to make the proceeding fair, expeditious, and cost-effective.

(3) An arbitrator may permit such discovery as the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitration proceeding and other affected persons and the desirability of making the proceeding fair, expeditious, and cost-effective.

(4) If an arbitrator permits discovery under subsection (3) of this section, the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, including the issuance of a subpoena for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and may take action against a party to the arbitration proceeding who does not comply to the extent permitted by law as if the controversy were the subject of a civil action in this state.

(5) An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets, and other information protected from disclosure as if the controversy were the subject of a civil action in this state.

(6) All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition, or a discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in this state.

(7) The court may enforce a subpoena or discovery-related order for the attendance of a witness within this state and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state upon conditions determined by the court in order to make the arbitration proceeding fair, expeditious, and cost-effective. A subpoena or discovery-related order issued by an arbitrator must be served in the manner provided by law for service of subpoenas in a civil action in this state and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by law for enforcement of subpoenas in a civil action in this state.

NEW SECTION. Sec. 18. COURT ENFORCEMENT OF PREAWARD RULING BY ARBITRATOR. If an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award under section 19 of this act. The successful party may file a motion to the court for an expedited order to confirm the award under section 22 of this act, in which case the court shall proceed summarily to decide the motion. The court shall issue an order to confirm the award unless the court vacates, modifies, or corrects the award of the arbitrator under sections 23 and 24 of this act.

NEW SECTION. Sec. 19. AWARD. (1) An arbitrator shall make a record of an award. The record must be authenticated by any arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

(2) An award must be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend or the parties to the arbitration proceeding may agree in a record to extend the time. The court or the parties may do so within or after the time specified or ordered. A party waives any objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

NEW SECTION. Sec. 20. CHANGE OF AWARD BY ARBITRATOR. (1) On motion to an arbitrator by a party to the arbitration proceeding, the arbitrator may modify or correct an award:

- (a) Upon the grounds stated in section 24(1) (a) or (c) of this act;
- (b) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or
- (c) To clarify the award.

(2) A motion under subsection (1) of this section must be made and served on all parties within twenty days after the movant receives notice of the award.

(3) A party to the arbitration proceeding must serve any objections to the motion within ten days after receipt of the notice.

(4) If a motion to the court is pending under section 22, 23, or 24 of this act, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(a) Upon the grounds stated in section 24(1) (a) or (c) of this act;

(b) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(c) To clarify the award.

(5) An award modified or corrected under this section is subject to sections 22, 23, and 24 of this act.

NEW SECTION. Sec. 21. REMEDIES—FEES AND EXPENSES OF ARBITRATION PROCEEDING. (1) An arbitrator may award punitive damages or other exemplary relief if such an award is authorized under the applicable law in a civil action involving the same claim and the evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.

(2) An arbitrator may award attorneys' fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

(3) As to all remedies other than those authorized by subsections (1) and (2) of this section, an arbitrator may order such remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under section 22 of this act or for vacating an award under section 23 of this act.

(4) An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

(5) If an arbitrator awards punitive damages or other exemplary relief under subsection (1) of this section, the arbitrator shall specify in the award the basis in fact justifying and the basis in law authorizing the award and state separately the amount of the punitive damages or other exemplary relief.

NEW SECTION. Sec. 22. CONFIRMATION OF AWARD. After a party to the arbitration proceeding receives notice of an award, the party may file a motion with the court for an order confirming the award, at which time the court shall issue such an order unless the award is modified or corrected under section 20 or 24 of this act or is vacated under section 23 of this act.

NEW SECTION. Sec. 23. VACATING AWARD. (1) Upon motion of a party to the arbitration proceeding, the court shall vacate an award if:

(a) The award was procured by corruption, fraud, or other undue means;

(b) There was:

(i) Evident partiality by an arbitrator appointed as a neutral;

(ii) Corruption by an arbitrator; or

(iii) Misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;

(c) An arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to section 15 of this act, so as to prejudice substantially the rights of a party to the arbitration proceeding;

(d) An arbitrator exceeded the arbitrator's powers;

(e) There was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection under section 15(3) of this act not later than the commencement of the arbitration hearing; or

(f) The arbitration was conducted without proper notice of the initiation of an arbitration as required in section 9 of this act so as to prejudice substantially the rights of a party to the arbitration proceeding.

(2) A motion under this section must be filed within ninety days after the movant receives notice of the award in a record under section 19 of this act or within ninety days after the movant receives notice of an arbitrator's award in a record on a motion to modify or correct an award under section 20 of this act, unless the motion is predicated upon the ground that the award was procured by corruption, fraud, or other undue means, in which case it must be filed within ninety days after such a ground is known or by the exercise of reasonable care should have been known by the movant.

(3) In vacating an award on a ground other than that set forth in subsection (1)(e) of this section, the court may order a rehearing before a new arbitrator. If the award is vacated on a ground stated in subsection (1)(c), (d), or (f) of this section, the court may order a rehearing before the arbitrator who made the award or the arbitrator's successor. The arbitrator must render the decision in the rehearing within the same time as that provided in section 19(2) of this act for an award.

(4) If a motion to vacate an award is denied and a motion to modify or correct the award is not pending, the court shall confirm the award.

NEW SECTION. Sec. 24. MODIFICATION OR CORRECTION OF AWARD. (1) Upon motion filed within ninety days after the movant receives notice of the award in a record under section 19 of this act or within ninety days after the movant receives notice of an arbitrator's award in a record on a motion to modify or correct an award under section 20 of this act, the court shall modify or correct the award if:

(a) There was an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property referred to in the award;

(b) The arbitrator has made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision upon the claims submitted; or

(c) The award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

(2) If a motion filed under subsection (1) of this section is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, the court shall confirm the award.

(3) A motion to modify or correct an award under this section may be joined with a motion to vacate the award.

NEW SECTION. Sec. 25. JUDGMENT ON AWARD—ATTORNEYS' FEES AND LITIGATION EXPENSES. (1) Upon granting an order confirming, vacating without directing a rehearing, modifying, or correcting an award, the court shall enter a judgment in conformity with the order. The judgment may be recorded, docketed, and enforced as any other judgment in a civil action.

(2) A court may allow reasonable costs of the motion and subsequent judicial proceedings.

(3) On application of a prevailing party to a contested judicial proceeding under section 22, 23, or 24 of this act, the court may add to a judgment confirming, vacating without directing a rehearing, modifying, or correcting an award, attorneys' fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made.

NEW SECTION. Sec. 26. JURISDICTION. (1) A court of this state having jurisdiction over the dispute and the parties may enforce an agreement to arbitrate.

(2) An agreement to arbitrate providing for arbitration in this state confers exclusive jurisdiction on the court to enter judgment on an award under this chapter.

NEW SECTION. Sec. 27. VENUE. A motion under section 5 of this act must be filed in the court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held. Otherwise, the motion must be filed in any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this state, in the court of any county in this state. All subsequent motions must be filed in the court hearing the initial motion unless the court otherwise directs.

NEW SECTION. Sec. 28. APPEALS. (1) An appeal may be taken from:

- (a) An order denying a motion to compel arbitration;
- (b) An order granting a motion to stay arbitration;
- (c) An order confirming or denying confirmation of an award;
- (d) An order modifying or correcting an award;
- (e) An order vacating an award without directing a rehearing; or
- (f) A final judgment entered under this chapter.

(2) An appeal under this section must be taken as from an order or a judgment in a civil action.

NEW SECTION. Sec. 29. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, 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. 30. CAPTIONS. Captions used in this act are not part of the law.

NEW SECTION. Sec. 31. SAVINGS CLAUSE. This act does not affect an action or proceeding commenced or right accrued before the effective date of this act.

NEW SECTION. Sec. 32. RELATIONSHIP TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. The provisions of this chapter governing the legal effect, validity, and enforceability of electronic records or electronic signatures, and of contracts performed with the use of such records or signatures conform to the requirements of section 102 of the electronic signatures in global and national commerce act.

Sec. 33. RCW 3.46.150 and 2001 c 68 s 2 are each amended to read as follows:

(1) Any city, having established a municipal department as provided in this chapter may, by written notice to the county legislative authority not less than one year prior to February 1st of the year in which all district court judges are subject to election, require the termination of the municipal department created pursuant to this chapter. A city may terminate a municipal department only at the end of a four-year judicial term. However, the city may not give the written notice required by this section unless the city has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the termination. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act). Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act).

(2) A county that wishes to terminate a municipal department of the district court must provide written notice to the city legislative authority at least one year prior to the date of the intended termination.

Sec. 34. RCW 3.50.800 and 1984 c 258 s 202 are each amended to read as follows:

(1) If a municipality has, prior to July 1, 1984, repealed in its entirety that portion of its municipal code defining crimes but continues to hear and determine traffic infraction cases under chapter 46.63 RCW in a municipal court, the municipality and the appropriate county shall, prior to January 1, 1985, enter into an agreement under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs incurred after January 1, 1985, associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. If the municipality and the county cannot come to an agreement within the time prescribed by this section, they shall be deemed to have entered into an agreement to submit the issue to arbitration pursuant to chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act). The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act).

(2) The agreement between the municipality and the county shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act). Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights as other parties who have agreed to submit to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act).

Sec. 35. RCW 3.50.805 and 1984 c 258 s 203 are each amended to read as follows:

(1) A municipality operating a municipal court under this chapter shall not terminate that court unless the municipality has reached an agreement with the appropriate county or another municipality under chapter 39.34 RCW under which the county or municipality is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district or municipal court as a result of the termination. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county or municipality are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter ~~((7.04))~~ 7. RCW (sections 1 through 32 of this act). Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county or municipality have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter ~~((7.04))~~ 7. RCW (sections 1 through 32 of this act). A municipality that has entered into agreements with other municipalities that have terminated their municipal courts may not thereafter terminate its court unless each municipality has reached an agreement with the appropriate county in accordance with this section.

(2) A municipality operating a municipal court under this chapter may not repeal in its entirety that portion of its municipal code defining crimes while retaining the court's authority to hear and determine traffic infractions under chapter 46.63 RCW unless the municipality has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter ~~((7.04))~~ 7. RCW (sections 1 through 32 of this act). Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter ~~((7.04))~~ 7. RCW (sections 1 through 32 of this act).

(3) A municipality operating a municipal court under this chapter may not repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter ~~((7.04))~~ 7. RCW (sections 1 through 32 of this act). Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality

and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter (~~(7.04)~~) 7.—RCW (sections 1 through 32 of this act).

Sec. 36. RCW 15.49.071 and 1989 c 354 s 77 are each amended to read as follows:

(1) When a buyer is damaged by the failure of any seed covered by this chapter to produce or perform as represented by the required label, by warranty, or as a result of negligence, the buyer, as a prerequisite to maintaining a legal action against the dealer of such seed, shall have first provided for the arbitration of the claim. Any statutory period of limitations with respect to such claim shall be tolled from the date arbitration proceedings are instituted until ten days after the date on which the arbitration award becomes final.

(2) Similarly, no such claim may be asserted as a counterclaim or defense in any action brought by a dealer against a buyer until the buyer has first provided for arbitration of the claim. Upon the buyer's filing of a written notice of intention to assert such a claim as a counterclaim or defense in the action accompanied by a copy of the buyer's complaint in arbitration filed as provided in this chapter, the action shall be stayed, and any applicable statute of limitations shall be tolled with respect to such claim from the date arbitration proceedings are instituted until ten days after the arbitration award becomes final.

(3) Conspicuous language calling attention to the requirement for arbitration under this section shall be referenced or included on the analysis label required under RCW 15.49.011 through 15.49.101.

(4) If the parties agree to submit the claim to arbitration and to be bound by the arbitration award, then the arbitration shall be subject to chapter (~~(7.04)~~) 7.—RCW (sections 1 through 32 of this act), and RCW 15.49.081 through 15.49.111 will not apply to the arbitration. If the parties do not so agree, then the buyer may provide for mandatory arbitration by the arbitration committee under RCW 15.49.081 through 15.49.111. An award rendered in such mandatory arbitration shall not be binding upon the parties and any trial on any claim so arbitrated shall be de novo.

(5) This section applies only to claims, or counterclaims, where the relief sought is, or includes, a monetary amount in excess of two thousand dollars. All claims for two thousand dollars or less shall be commenced in either district court or small claims court.

Sec. 37. RCW 35.20.010 and 2001 c 68 s 3 are each amended to read as follows:

(1) There is hereby created and established in each incorporated city of this state having a population of more than four hundred thousand inhabitants, as shown by the federal or state census, whichever is the later, a municipal court, which shall be styled "The Municipal Court of (name of city)," hereinafter designated and referred to as the municipal court, which court shall have jurisdiction and shall exercise all the powers by this chapter declared to be vested in such municipal court, together with such powers and jurisdiction as is generally conferred in this state either by common law or statute.

(2) A municipality operating a municipal court under this section may terminate that court if the municipality has reached an agreement with the

county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the termination. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act). Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act).

(3) A city that has entered into an agreement for court services with the county must provide written notice of the intent to terminate the agreement to the county legislative authority not less than one year prior to February 1st of the year in which all district court judges are subject to election. A city that terminates an agreement for court services to be provided by a district court may terminate the agreement only at the end of a four-year district court judicial term.

(4) A county that wishes to terminate an agreement with a city for the provision of court services must provide written notice of the intent to terminate the agreement to the city legislative authority not less than one year prior to the expiration of the agreement.

Sec. 38. RCW 35.22.425 and 1984 c 258 s 204 are each amended to read as follows:

A city of the first class operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes or repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act). Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act).

Sec. 39. RCW 35.23.555 and 1994 c 81 s 52 are each amended to read as follows:

A city of the second class operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes or repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication,

and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act). Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act).

Sec. 40. RCW 35.27.515 and 1984 c 258 s 207 are each amended to read as follows:

A town operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes or repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act). Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act).

Sec. 41. RCW 35.30.100 and 1984 c 258 s 208 are each amended to read as follows:

A city operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act). Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act).

Sec. 42. RCW 35A.11.200 and 1984 c 258 s 209 are each amended to read as follows:

A code city operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes unless the municipality has

reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act). Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act).

Sec. 43. RCW 46.96.150 and 1994 c 274 s 2 are each amended to read as follows:

(1) Within thirty days after receipt of the notice under RCW 46.96.140, or within thirty days after the end of an appeal procedure provided by the manufacturer, whichever is greater, a new motor vehicle dealer so notified or entitled to notice may file a petition with the department protesting the proposed establishment or relocation. The petition shall contain a short statement setting forth the reasons for the dealer's objection to the proposed establishment or relocation. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The manufacturer shall not establish or relocate the new motor vehicle dealer until the administrative law judge has held a hearing and has determined that there is good cause for permitting the proposed establishment or relocation. When more than one protest is filed against the establishment or relocation of the same dealer, the administrative law judge shall consolidate the hearings to expedite disposition of the matter.

(2) If a manufacturer provides in the franchise agreement or by written statement distributed and provided to its dealers for arbitration under the ~~((Washington))~~ Uniform Arbitration Act, chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act), as a mechanism for resolving disputes relating to the establishment of an additional new motor vehicle dealer or the relocation of a new motor vehicle dealer, then the provisions of this section and RCW 46.96.170 relating to hearings by an administrative law judge do not apply, and a dispute regarding the establishment of an additional new motor vehicle dealer or the relocation of an existing new motor vehicle dealer shall be determined in an arbitration proceeding conducted in accordance with the ~~((Washington))~~ Uniform Arbitration Act, chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act). The thirty-day period for filing a protest under this section still applies except that the protesting dealer shall file his protest with the manufacturer within thirty days after receipt of the notice under RCW 46.96.140.

(3) The dispute shall be referred for arbitration to such arbitrator as may be agreed upon by the parties to the dispute. If the parties cannot agree upon a single arbitrator within thirty days from the date the protest is filed, the protesting dealer will select an arbitrator, the manufacturer will select an arbitrator, and the two arbitrators will then select a third. If a third arbitrator is not agreed upon within thirty days, any party may apply to the superior court,

and the judge of the superior court having jurisdiction will appoint the third arbitrator. The protesting dealer will pay the arbitrator selected by him, and the manufacturer will pay the arbitrator it selected. The expense of the third arbitrator and all other expenses of arbitration will be shared equally by the parties. Attorneys' fees and fees paid to expert witnesses are not expenses of arbitration and will be paid by the person incurring them.

(4) Notwithstanding the terms of a franchise or written statement of the manufacturer and notwithstanding the terms of a waiver, the arbitration will take place in the state of Washington in the county where the protesting dealer has his principal place of business. RCW 46.96.160 applies to a determination made by the arbitrator or arbitrators in determining whether good cause exists for permitting the proposed establishment or relocation of a new motor vehicle dealer, and the manufacturer has the burden of proof to establish that good cause exists for permitting the proposed establishment or relocation. After a hearing has been held, the arbitrator or arbitrators shall render a decision as expeditiously as possible, but in any event not later than one hundred twenty days from the date the arbitrator or arbitrators are selected or appointed. The manufacturer shall not establish or relocate the new motor vehicle dealer until the arbitration hearing has been held and the arbitrator or arbitrators have determined that there is good cause for permitting the proposed establishment or relocation. The written decision of the arbitrator is binding upon the parties unless modified, corrected, or vacated under the Washington Arbitration Act. Any party may appeal the decision of the arbitrator under the ((Washington)) Uniform Arbitration Act, chapter ((7.04)) 7.— RCW (sections 1 through 32 of this act).

(5) If the franchise agreement or the manufacturer's written statement distributed and provided to its dealers does not provide for arbitration under the ((Washington)) Uniform Arbitration Act as a mechanism for resolving disputes relating to the establishment of an additional new motor vehicle dealer or the relocation of a new motor vehicle dealer, then the hearing provisions of this section and RCW 46.96.170 apply. Nothing in this section is intended to preclude a new motor vehicle dealer from electing to use any other dispute resolution mechanism offered by a manufacturer.

Sec. 44. RCW 49.66.090 and 1973 2nd ex.s. c 3 s 7 are each amended to read as follows:

In the event that a health care activity and an employees' bargaining unit shall reach an impasse, the matters in dispute shall be submitted to a board of arbitration composed of three arbitrators for final and binding resolution. The board shall be selected in the following manner: Within ten days, the employer shall appoint one arbitrator and the employees shall appoint one arbitrator. The two arbitrators so selected and named shall within ten days agree upon and select the name of a third arbitrator who shall act as chairman. If, upon the expiration of the period allowed therefor the arbitrators are unable to agree on the selection of a third arbitrator, such arbitrator shall be appointed at the request of either party in accordance with ((the provisions of RCW 7.04.050)) section 11 of this act, and ((he)) that person shall act as ((chairman)) chair of the arbitration board.

Sec. 45. RCW 59.18.320 and 1973 1st ex.s. c 207 s 32 are each amended to read as follows:

(1) The landlord and tenant may agree, in writing, except as provided in RCW 59.18.230(2)(e), to submit to arbitration, in conformity with the provisions of this section, any controversy arising under the provisions of this chapter, except the following:

(a) Controversies regarding the existence of defects covered in subsections (1) and (2) of RCW 59.18.070: PROVIDED, That this exception shall apply only before the implementation of any remedy by the tenant;

(b) Any situation where court action has been started by either landlord or tenant to enforce rights under this chapter; when the court action substantially affects the controversy, including but not limited to:

(i) Court action pursuant to subsections (2) and (3) of RCW 59.18.090 and subsections (1) and (2) of RCW 59.18.160; and

(ii) Any unlawful detainer action filed by the landlord pursuant to chapter 59.12 RCW.

(2) The party initiating arbitration under subsection (1) of this section shall give reasonable notice to the other party or parties.

(3) Except as otherwise provided in this section, the arbitration process shall be administered by any arbitrator agreed upon by the parties at the time the dispute arises: PROVIDED, That the procedures shall comply with the requirements of chapter ~~((7-04))~~ 7 RCW (sections 1 through 32 of this act) (relating to arbitration) and of this chapter.

Sec. 46. RCW 59.18.330 and 1973 1st ex.s. c 207 s 33 are each amended to read as follows:

(1) Unless otherwise mutually agreed to, in the event a controversy arises under RCW 59.18.320 the landlord or tenant, or both, shall complete an application for arbitration and deliver it to the selected arbitrator.

(2) The arbitrator so designated shall schedule a hearing to be held no later than ten days following receipt of notice of the controversy, except as provided in RCW 59.18.350.

(3) The arbitrator shall conduct public or private hearings. Reasonable notice of such hearings shall be given to the parties, who shall appear and be heard either in person or by counsel or other representative. Hearings shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. A recording of the proceedings may be taken. Any oral or documentary evidence and other data deemed relevant by the arbitrator may be received in evidence. The arbitrator shall have the power to administer oaths, to issue subpoenas, to require the attendance of witnesses and the production of such books, papers, contracts, agreements, and documents as may be deemed by the arbitrator material to a just determination of the issues in dispute. If any person refuses to obey such subpoena or refuses to be sworn to testify, or any witness, party, or attorney is guilty of any contempt while in attendance at any hearing held hereunder, the arbitrator may invoke the jurisdiction of any superior court, and such court shall have jurisdiction to issue an appropriate order. A failure to obey such order may be punished by the court as a contempt thereof.

(4) Within five days after conclusion of the hearing, the arbitrator shall make a written decision upon the issues presented, a copy of which shall be mailed by certified mail or otherwise delivered to the parties or their designated representatives. The determination of the dispute made by the arbitrator shall be final and binding upon both parties.

(5) If a defective condition exists which affects more than one dwelling unit in a similar manner, the arbitrator may consolidate the issues of fact common to those dwelling units in a single proceeding.

(6) Decisions of the arbitrator shall be enforced or appealed according to the provisions of chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act).

Sec. 47. RCW 59.20.260 and 1984 c 58 s 13 are each amended to read as follows:

(1) The landlord and tenant may agree in writing to submit a controversy arising under this chapter to arbitration. The agreement shall contain the name of the arbitrator agreed upon by the parties or the process for selecting the arbitrator.

(2) The arbitration shall be administered under this chapter and chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act).

Sec. 48. RCW 59.20.270 and 1984 c 58 s 14 are each amended to read as follows:

(1) If the landlord and tenant agree to submit the matter to arbitration, the parties shall complete an application for arbitration and deliver it to the selected arbitrator.

(2) The arbitrator shall schedule a hearing to be held no later than ten days following receipt of the application.

(3) Reasonable notice of the hearings shall be given to the parties, who shall appear and be heard either in person, by counsel, or by other representative. Hearings shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. Hearings may be public or private. The proceedings may be recorded. Any oral or documentary evidence and other data deemed relevant by the arbitrator may be received in evidence. The arbitrator may administer oaths, issue subpoenas, and require the attendance of witnesses and the production of books, papers, contracts, agreements, and documents deemed by the arbitrator to be material to a just determination of the issues in dispute. If a person refuses to obey a subpoena or refuses to be sworn to testify, or any witness, party, or attorney is guilty of any contempt while in attendance at any hearing held under this section, the arbitrator may invoke the jurisdiction of any district or superior court, and the court shall have jurisdiction to issue an appropriate order. Failure to obey the order may be punished by the court as contempt.

(4) Within five days after the hearing, the arbitrator shall make a written decision upon the issues presented. A copy of the decision shall be mailed by certified mail or otherwise delivered to the parties or their designated representatives. The decision of the arbitrator shall be final and binding upon all parties.

(5) If a dispute exists affecting more than one tenant in a similar manner, the arbitrator may with the consent of the parties consolidate the cases into a single proceeding.

(6) Decisions of the arbitrator shall be enforced or appealed under chapter ~~((7.04))~~ 7.— RCW (sections 1 through 32 of this act).

Sec. 49. RCW 70.87.205 and 1983 c 123 s 23 are each amended to read as follows:

(1) Disputes arising under RCW 70.87.200(2) shall be resolved by arbitration. The request shall be sent by certified mail.

(2) The department shall appoint one arbitrator; the municipality shall appoint one arbitrator; and the arbitrators chosen by the department and the municipality shall appoint the third arbitrator. If the two arbitrators cannot agree on the third arbitrator, the presiding judge of the Thurston county superior court, or his or her designee, shall appoint the third arbitrator.

(3) The arbitration shall be held pursuant to the procedures in chapter ~~((7.04) 7.—~~ RCW ~~(sections 1 through 32 of this act),~~ except that ~~((RCW 7.04.220))~~ section 28(1)(f) of this act shall not apply. The decision of the arbitrators is final and binding on the parties. Neither party may appeal a decision to any court.

(4) A party may petition the Thurston county superior court to enforce a decision of the arbitrators.

NEW SECTION. Sec. 50. REPEALER. The following acts or parts of acts are each repealed:

(1) RCW 7.04.010 (Arbitration authorized) and 1947 c 209 s 1 & 1943 c 138 s 1;

(2) RCW 7.04.020 (Applications in writing—How heard—Jurisdiction) and 1982 c 122 s 1 & 1943 c 138 s 2;

(3) RCW 7.04.030 (Stay of action pending arbitration) and 1943 c 138 s 3;

(4) RCW 7.04.040 (Motion to compel arbitration—Notice and hearing—Motion for stay) and 1943 c 138 s 4;

(5) RCW 7.04.050 (Appointment of arbitrators by court) and 1943 c 138 s 5;

(6) RCW 7.04.060 (Notice of intention to arbitrate—Contents) and 1943 c 138 s 6;

(7) RCW 7.04.070 (Hearing by arbitrators) and 1943 c 138 s 7;

(8) RCW 7.04.080 (Failure of party to appear no bar to hearing and determination) and 1943 c 138 s 8;

(9) RCW 7.04.090 (Time of making award—Extension—Failure to make award when required) and 1985 c 265 s 1 & 1943 c 138 s 9;

(10) RCW 7.04.100 (Representation by attorney) and 1943 c 138 s 10;

(11) RCW 7.04.110 (Witnesses—Compelling attendance) and 1943 c 138 s 11;

(12) RCW 7.04.120 (Depositions) and 1943 c 138 s 12;

(13) RCW 7.04.130 (Order to preserve property or secure satisfaction of award) and 1943 c 138 s 13;

(14) RCW 7.04.140 (Form of award—Copies to parties) and 1943 c 138 s 14;

(15) RCW 7.04.150 (Confirmation of award by court) and 1982 c 122 s 2 & 1943 c 138 s 15;

(16) RCW 7.04.160 (Vacation of award—Rehearing) and 1943 c 138 s 16;

(17) RCW 7.04.170 (Modification or correction of award by court) and 1943 c 138 s 17;

(18) RCW 7.04.175 (Modification or correction of award by arbitrators) and 1985 c 265 s 2;

(19) RCW 7.04.180 (Notice of motion to vacate, modify, or correct award—Stay) and 1943 c 138 s 18;

(20) RCW 7.04.190 (Judgment—Costs) and 1943 c 138 s 19;

- (21) RCW 7.04.200 (Judgment roll—Docketing) and 1943 c 138 s 20;
- (22) RCW 7.04.210 (Effect of judgment) and 1943 c 138 s 21; and
- (23) RCW 7.04.220 (Appeal) and 1943 c 138 s 22.

NEW SECTION. **Sec. 51.** This act takes effect January 1, 2006.

NEW SECTION. **Sec. 52.** Sections 1 through 32 of this act constitute a new chapter in Title 7 RCW.

Passed by the House April 18, 2005.

Passed by the Senate April 5, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 434

[House Bill 1081]

LAW ENFORCEMENT APPLICANTS—PSYCHOLOGICAL
EXAMINATIONS—POLYGRAPH TESTS

AN ACT Relating to requiring prehire screening for law enforcement applicants; and amending RCW 43.101.080, 43.101.095, 43.101.105, and 43.43.020.

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

Sec. 1. RCW 43.101.080 and 2001 c 166 s 1 are each amended to read as follows:

The commission shall have all of the following powers:

- (1) To meet at such times and places as it may deem proper;
- (2) To adopt any rules and regulations as it may deem necessary;
- (3) To contract for services as it deems necessary in order to carry out its duties and responsibilities;
- (4) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;
- (5) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it;
- (6) To select and employ an executive director, and to empower him to perform such duties and responsibilities as it may deem necessary;
- (7) To assume legal, fiscal, and program responsibility for all training conducted by the commission;
- (8) To establish, by rule and regulation, standards for the training of criminal justice personnel where such standards are not prescribed by statute;
- (9) To own, establish, and operate, or to contract with other qualified institutions or organizations for the operation of, training and education programs for criminal justice personnel and to purchase, lease, or otherwise acquire, subject to the approval of the department of general administration, a training facility or facilities necessary to the conducting of such programs;
- (10) To establish, by rule and regulation, minimum curriculum standards for all training programs conducted for employed criminal justice personnel;
- (11) To review and approve or reject standards for instructors of training programs for criminal justice personnel, and to employ personnel on a temporary basis as instructors without any loss of employee benefits to those instructors;

(12) To direct the development of alternative, innovate, and interdisciplinary training techniques;

(13) To review and approve or reject training programs conducted for criminal justice personnel and rules establishing and prescribing minimum training and education standards recommended by the training standards and education boards;

(14) To allocate financial resources among training and education programs conducted by the commission;

(15) To allocate training facility space among training and education programs conducted by the commission;

(16) To issue diplomas certifying satisfactory completion of any training or education program conducted or approved by the commission to any person so completing such a program;

(17) To provide for the employment of such personnel as may be practical to serve as temporary replacements for any person engaged in a basic training program as defined by the commission;

(18) To establish rules and regulations recommended by the training standards and education boards prescribing minimum standards relating to physical, mental and moral fitness which shall govern the recruitment of criminal justice personnel where such standards are not prescribed by statute or constitutional provision;

(19) To require that each applicant that has been offered a conditional offer of employment as a fully commissioned peace officer or a fully commissioned reserve officer take and successfully pass a psychological examination and a polygraph test or similar assessment procedure as administered by county, city, or state law enforcement agencies as a condition of employment as a peace officer. The psychological examination and the polygraph examination shall be administered in accordance with the requirements of RCW 43.101.095(2). The employing county, city, or state law enforcement agency may require that each peace officer or reserve officer who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or four hundred dollars, whichever is less. County, city, and state law enforcement agencies may establish a payment plan if they determine that the peace officer or reserve officer does not readily have the means to pay for his or her portion of the testing fee.

All rules and regulations adopted by the commission shall be adopted and administered pursuant to the administrative procedure act, chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW.

Sec. 2. RCW 43.101.095 and 2001 c 167 s 2 are each amended to read as follows:

(1) As a condition of continuing employment as peace officers, all Washington peace officers: (a) Shall timely obtain certification as peace officers, or timely obtain certification or exemption therefrom, by meeting all requirements of RCW 43.101.200, as that section is administered under the rules of the commission, as well by meeting any additional requirements under this chapter; and (b) shall maintain the basic certification as peace officers under this chapter.

(2)(a) As a condition of continuing employment for any applicant that has been offered a conditional offer of employment as a fully commissioned peace

officer or a reserve officer after the effective date of this act, including any person whose certification has lapsed as a result of a break of more than twenty-four consecutive months in the officer's service as a fully commissioned peace officer or reserve officer, the applicant shall successfully pass a psychological examination and a polygraph or similar test as administered by the county, city, or state law enforcement agency that complies with the following requirements:

(i) The psychological examination shall be administered by a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW. The examination shall consist of, at a minimum, a standardized clinical test that is widely used as an objective clinical screening tool for personality and psychosocial disorders. The test that is used and the conditions under which the test is administered, scored, and interpreted must comply with accepted psychological standards. Additional tests may be administered at the option of the employing law enforcement agency.

(ii) The polygraph examination or similar assessment shall be administered by an experienced polygrapher who is a graduate of a polygraph school accredited by the American polygraph association.

(b) The employing county, city, or state law enforcement agency may require that each peace officer or reserve officer who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or four hundred dollars, whichever is less. County, city, and state law enforcement agencies may establish a payment plan if they determine that the peace officer or reserve officer does not readily have the means to pay for his or her portion of the testing fee.

(3) The commission shall certify peace officers who have satisfied, or have been exempted by statute or by rule from, the basic training requirements of RCW 43.101.200 on or before January 1, 2002. Thereafter, the commission may revoke certification pursuant to this chapter.

~~((2))~~ (4) The commission shall allow a peace officer to retain status as a certified peace officer as long as the officer: (a) Timely meets the basic law enforcement training requirements, or is exempted therefrom, in whole or in part, under RCW 43.101.200 or under rule of the commission; (b) meets or is exempted from any other requirements under this chapter as administered under the rules adopted by the commission; (c) is not denied certification by the commission under this chapter; and (d) has not had certification revoked by the commission.

~~((3))~~ (5) As a prerequisite to certification, as well as a prerequisite to pursuit of a hearing under RCW 43.101.155, a peace officer must, on a form devised or adopted by the commission, authorize the release to the commission of his or her personnel files, termination papers, criminal investigation files, or other files, papers, or information that are directly related to a certification matter or decertification matter before the commission.

Sec. 3. RCW 43.101.105 and 2001 c 167 s 3 are each amended to read as follows:

(1) Upon request by a peace officer's employer or on its own initiative, the commission may deny or revoke certification of any peace officer, after written notice and hearing, if a hearing is timely requested by the peace officer under

RCW 43.101.155, based upon a finding of one or more of the following conditions:

~~((1))~~ (a) The peace officer has failed to timely meet all requirements for obtaining a certificate of basic law enforcement training, a certificate of basic law enforcement training equivalency, or a certificate of exemption from the training;

~~((2))~~ (b) The peace officer has knowingly falsified or omitted material information on an application for training or certification to the commission;

~~((3))~~ (c) The peace officer has been convicted at any time of a felony offense under the laws of this state or has been convicted of a federal or out-of-state offense comparable to a felony under the laws of this state; except that if a certified peace officer was convicted of a felony before being employed as a peace officer, and the circumstances of the prior felony conviction were fully disclosed to his or her employer before being hired, the commission may revoke certification only with the agreement of the employing law enforcement agency;

~~((4))~~ (d) The peace officer has been discharged for disqualifying misconduct, the discharge is final, and some or all of the acts or omissions forming the basis for the discharge proceedings occurred on or after January 1, 2002;

~~((5))~~ (e) The peace officer's certificate was previously issued by administrative error on the part of the commission; or

~~((6))~~ (f) The peace officer has interfered with an investigation or action for denial or revocation of certificate by: ~~((a))~~ (i) Knowingly making a materially false statement to the commission; or ~~((b))~~ (ii) in any matter under investigation by or otherwise before the commission, tampering with evidence or tampering with or intimidating any witness.

(2) After the effective date of this act, the commission shall deny certification to any applicant that has lost his or her certification as a result of a break in service of more than twenty-four consecutive months if that applicant failed to successfully pass the psychological examination and the polygraph test or similar assessment procedure required in RCW 43.101.095(2), as administered by county, city, or state law enforcement agencies.

Sec. 4. RCW 43.43.020 and 1983 c 144 s 1 are each amended to read as follows:

The governor, with the advice and consent of the senate, shall appoint the chief of the Washington state patrol, determine his compensation, and may remove him at will.

The chief shall appoint a sufficient number of competent persons to act as Washington state patrol officers, may remove them for cause, as provided in this chapter, and shall make promotional appointments, determine their compensation, and define their rank and duties, as hereinafter provided. Before a person may be appointed to act as a Washington state patrol officer, the person shall meet the minimum standards for employment with the Washington state patrol, including successful completion of a psychological examination and polygraph examination or similar assessment procedure administered by the chief or his or her designee in accordance with the requirements of RCW 43.101.095(2).

The chief may appoint employees of the Washington state patrol to serve as special deputies, with such restricted police authority as the chief shall designate

as being necessary and consistent with their assignment to duty. Such appointment and conferral of authority shall not qualify said employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol.

The chief may personally appoint, with the consent of the state treasurer, employees of the office of the state treasurer who are qualified under the standards of the criminal justice training commission, or who have comparable training and experience, to serve as special deputies. The law enforcement powers of any special deputies appointed in the office of the state treasurer shall be designated by the chief and shall be restricted to those powers necessary to provide for statewide security of the holdings or property of or under the custody of the office of the state treasurer. These appointments may be revoked by the chief at any time and shall be revoked upon the written request of the state treasurer or by operation of law upon termination of the special deputy's employment with the office of the state treasurer or thirty days after the chief who made the appointment leaves office. The chief shall be civilly immune for the acts of such special deputies. Such appointment and conferral of authority shall not qualify such employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol.

Passed by the House April 18, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 435

[House Bill 1136]

ELECTRONIC MONITORING

AN ACT Relating to studying electronic monitoring as an alternative to incarceration; amending RCW 9.94A.737; 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 believes that electronic monitoring, as an alternative to incarceration, is a proper and cost-effective method of punishment and supervision for many criminal offenders. The legislature further finds that advancements in electronic monitoring technology have made the technology more common and acceptable to criminal justice system personnel, policymakers, and the general public.

In an effort to reduce prison and jail populations, many states are increasing their utilization of electronic monitoring. However, Washington state's use of electronic monitoring has been relatively stagnant.

The intent of this act is to determine what electronic monitoring policies and programs have been implemented in the other forty-nine states, in order that Washington state can learn from the other states' experiences.

NEW SECTION. Sec. 2. (1) The Washington association of sheriffs and police chiefs shall conduct a comprehensive study on electronic monitoring in every state. The study shall review and analyze each state's activity regarding electronic monitoring. Specifically, the study shall include:

- (a) How often electronic monitoring is used;
 - (b) A description of laws and circumstances of when an offender is placed on electronic monitoring;
 - (c) The discovery and analysis of specific programs used to promote electronic monitoring and how they are operated;
 - (d) The type of electronic monitoring technology used;
 - (e) Evaluation of offender pay programs and the amount of money recovered from these programs;
 - (f) Overall perceptions of electronic monitoring from the criminal justice community, and any real or perceived problems or concerns with electronic monitoring;
 - (g) Estimates on savings realized by utilizing electronic monitoring.
- (2) The findings and any recommendations from the study shall be placed into a final report and presented to the legislature no later than December 31, 2005.

Sec. 3. RCW 9.94A.737 and 2002 c 175 s 15 are each amended to read as follows:

(1) If an offender violates any condition or requirement of community custody, the department may transfer the offender to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation and subject to the limitations of subsection (2) of this section.

(2)(a) For a sex offender sentenced to a term of community custody under RCW 9.94A.670 who violates any condition of community custody, the department may impose a sanction of up to sixty days' confinement in a local correctional facility for each violation. If the department imposes a sanction, the department shall submit within seventy-two hours a report to the court and the prosecuting attorney outlining the violation or violations and the sanctions imposed.

(b) For a sex offender sentenced to a term of community custody under RCW 9.94A.710 who violates any condition of community custody after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in a local correctional facility for each violation.

(c) For an offender sentenced to a term of community custody under RCW 9.94A.505(2)(b), 9.94A.650, or 9.94A.715, or under RCW 9.94A.545, for a crime committed on or after July 1, 2000, who violates any condition of community custody after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in total confinement for each violation. The department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

(d) For an offender sentenced to a term of community placement under RCW 9.94A.705 who violates any condition of community placement after having completed his or her maximum term of total confinement, including time

served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in total confinement for each violation. The department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

(3) If an offender is accused of violating any condition or requirement of community custody, he or she is entitled to a hearing before the department prior to the imposition of sanctions. The hearing shall be considered as offender disciplinary proceedings and shall not be subject to chapter 34.05 RCW. The department shall develop hearing procedures and a structure of graduated sanctions.

(4) The hearing procedures required under subsection (3) of this section shall be developed by rule and include the following:

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

(b) The department shall provide the offender with written notice of the violation, the evidence relied upon, and the reasons the particular sanction was imposed. The notice shall include a statement of the rights specified in this subsection, and the offender's right to file a personal restraint petition under court rules after the final decision of the department;

(c) The hearing shall be held unless waived by the offender, and shall be electronically recorded. For offenders not in total confinement, the hearing shall be held within fifteen working days, but not less than twenty-four hours, after notice of the violation. For offenders in total confinement, the hearing shall be held within five working days, but not less than twenty-four hours, after notice of the violation;

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

(e) The sanction shall take effect if affirmed by the hearing officer. Within seven days after the hearing officer's decision, the offender may appeal the decision to a panel of three reviewing officers designated by the secretary or by the secretary's designee. The sanction shall be reversed or modified if a majority of the panel finds that the sanction was not reasonably related to any of the following: (i) The crime of conviction; (ii) the violation committed; (iii) the offender's risk of reoffending; or (iv) the safety of the community.

(5) For purposes of this section, no finding of a violation of conditions may be based on unconfirmed or unconfirmable allegations.

(6) The department shall work with the Washington association of sheriffs and police chiefs to establish and operate an electronic monitoring program for low-risk offenders who violate the terms of their community custody. Between January 1, 2006, and December 31, 2006, the department shall endeavor to place at least one hundred low-risk community custody violators on the electronic

monitoring program per day if there are at least that many low-risk offenders who qualify for the electronic monitoring program.

(7) Local governments, their subdivisions and employees, the department and its employees, and the Washington association of sheriffs and police chiefs and its employees shall be immune from civil liability for damages arising from incidents involving low-risk offenders who are placed on electronic monitoring unless it is shown that an employee acted with gross negligence or bad faith.

***NEW SECTION. Sec. 4. This act expires December 31, 2005.**

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

NEW SECTION. Sec. 5. If specific funding for the purposes of section 2 of this act, referencing this act and section 2 of this act by bill or chapter number and section number, is not provided by June 30, 2005, in the omnibus appropriations act, section 2 of this act is null and void.

Passed by the House April 18, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 13, 2005, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2005.

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

"I am returning, without my approval as to Section 4, House Bill No. 1136 entitled:

"AN ACT Relating to studying electronic monitoring as an alternative to incarceration."

Section 3 of the bill requires the Department of Corrections to operate an electronic monitoring program beginning on January 1, 2006. In its entirety, Section 4 states: "This act expires December 31, 2005." Section 4 was apparently left in the bill inadvertently after Section 3 was added. Section 3 cannot be effective if Section 4 remains in the bill.

For these reasons, I have vetoed Section 4 of House Bill No. 1136.

With the exception of Section 4, House Bill No. 1136 is approved."

CHAPTER 436

[Substitute House Bill 1147]

SEX OFFENDERS—COMMUNITY PROTECTION ZONES

AN ACT Relating to protecting communities from sex offenders through the establishment of community protection zones; amending RCW 9.94A.030, 9.94A.712, and 72.09.340; adding a new section to chapter 9.94A RCW; creating a new section; and providing an expiration date.

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

Sec. 1. RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read as follows:

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

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

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard

to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

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

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

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the community subject to controls placed on the offender's movement and activities by the department. For offenders placed on community custody for crimes committed on or after July 1, 2000, the department shall assess the offender's risk of reoffense and may establish and modify conditions of community custody, in addition to those imposed by the court, based upon the risk to community safety.

(6) "Community custody range" means the minimum and maximum period of community custody included as part of a sentence under RCW 9.94A.715, as established by the commission or the legislature under RCW 9.94A.850, for crimes committed on or after July 1, 2000.

(7) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

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

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

~~((9))~~ (10) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

~~((10))~~ (11) "Confinement" means total or partial confinement.

~~((11))~~ (12) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

~~((12))~~ (13) "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.

~~((13))~~ (14) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

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

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

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

~~((14))~~ (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.

~~((15))~~ (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.

~~((16))~~ (17) "Department" means the department of corrections.

~~((17))~~ (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 supervision, 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.

~~((18))~~ (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.

~~((19))~~ (20) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

~~((20))~~ (21) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

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

~~((21))~~ (22) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

~~((22))~~ (23) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

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

~~((23))~~ (24) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); 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.

~~((24))~~ (25) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

~~((25))~~ (26) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

~~((26))~~ (27) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

~~((27))~~ (28) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

~~((28))~~ (29) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

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

(b) Assault in the second degree;

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

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

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

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9A.94A.602;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.

~~((29))~~ (30) "Nonviolent offense" means an offense which is not a violent offense.

~~((30))~~ (31) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under

RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

~~((31))~~ (32) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

~~((32))~~ (33) "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, or burglary in the first degree; or (C) an attempt to commit a crime listed in this subsection ~~((32))~~ (33)(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.

~~((33))~~ (34) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

~~((34))~~ (35) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

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

(37) "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.

~~((35))~~ (38) "Risk assessment" means the application of an objective instrument supported by research and adopted by the department for the purpose of assessing an offender's risk of reoffense, taking into consideration the nature of the harm done by the offender, place and circumstances of the offender related to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations.

~~((36))~~ (39) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), 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.

~~((37))~~ (40) "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.

~~((38))~~ (41) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(11);

(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.070 or 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

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

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

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

~~((39))~~ (42) "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.

~~((40))~~ (43) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

~~((41))~~ (44) "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.

~~((42))~~ (45) "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.

~~((43))~~ (46) "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.

~~((44))~~ (47) "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.

~~((45))~~ (48) "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.

~~((46))~~ (49) "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.

~~((47))~~ (50) "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.

~~((48))~~ (51) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 2. RCW 9.94A.712 and 2004 c 176 s 3 are each amended to read as follows:

(1) An offender who is not a persistent offender shall be sentenced under this section if the offender:

(a) Is convicted of:

(i) Rape in the first degree, rape in the second degree, rape of a child in the first degree, child molestation in the first degree, rape of a child in the second degree, or indecent liberties by forcible compulsion;

(ii) 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, or burglary in the first degree; or

(iii) An attempt to commit any crime listed in this subsection (1)(a); committed on or after September 1, 2001; or

(b) Has a prior conviction for an offense listed in RCW 9.94A.030~~((32))~~ (33)(b), and is convicted of any sex offense which was committed after September 1, 2001.

For purposes of this subsection (1)(b), failure to register is not a sex offense.

(2) An offender convicted of rape of a child in the first or second degree or child molestation in the first degree who was seventeen years of age or younger at the time of the offense shall not be sentenced under this section.

(3) Upon a finding that the offender is subject to sentencing under this section, the court shall impose a sentence to a maximum term consisting of the statutory maximum sentence for the offense and a minimum term either within the standard sentence range for the offense, or outside the standard sentence range pursuant to RCW 9.94A.535, if the offender is otherwise eligible for such a sentence.

(4) A person sentenced under subsection (3) of this section shall serve the sentence in a facility or institution operated, or utilized under contract, by the state.

(5) When a court sentences a person to the custody of the department under this section, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody under the supervision of the department and the authority of the board for any period of time the person is released from total confinement before the expiration of the maximum sentence.

(6)(a)(i) Unless a condition is waived by the court, the conditions of community custody shall include those provided for in RCW 9.94A.700(4). The conditions may also include those provided for in RCW 9.94A.700(5). The court may also order the offender to participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community, and the department and the board shall enforce such conditions pursuant to RCW 9.94A.713, 9.95.425, and 9.95.430.

(ii) If the offense that caused the offender to be sentenced under this section was an offense listed in subsection (1)(a) of this section and the victim of the offense was under eighteen years of age at the time of the offense, the court shall, as a condition of community custody, prohibit the offender from residing in a community protection zone.

(b) As part of any sentence under this section, the court shall also require the offender to comply with any conditions imposed by the board under RCW 9.94A.713 and 9.95.420 through 9.95.435.

Sec. 3. RCW 72.09.340 and 1996 c 215 s 3 are each amended to read as follows:

(1) In making all discretionary decisions regarding release plans for and supervision of sex offenders, the department shall set priorities and make decisions based on an assessment of public safety risks.

(2) The department shall, no later than September 1, 1996, implement a policy governing the department's evaluation and approval of release plans for sex offenders. The policy shall include, at a minimum, a formal process by which victims, witnesses, and other interested people may provide information and comments to the department on potential safety risks to specific individuals or classes of individuals posed by a specific sex offender. The department shall make all reasonable efforts to publicize the availability of this process through currently existing mechanisms and shall seek the assistance of courts, prosecutors, law enforcement, and victims' advocacy groups in doing so. Notice of an offender's proposed residence shall be provided to all people registered to receive notice of an offender's release under RCW 9.94A.612(2), except that in no case may this notification requirement be construed to require an extension of an offender's release date.

(3)(a) For any offender convicted of a felony sex offense against a minor victim after June 6, 1996, the department shall not approve a residence location if the proposed residence: ~~((a))~~ (i) Includes a minor victim or child of similar age or circumstance as a previous victim who the department determines may be put at substantial risk of harm by the offender's residence in the household; or ~~((b))~~ (ii) is within close proximity of the current residence of a minor victim, unless the whereabouts of the minor victim cannot be determined or unless such a restriction would impede family reunification efforts ordered by the court or directed by the department of social and health services. The department is further authorized to reject a residence location if the proposed residence is within close proximity to schools, child care centers, playgrounds, or other grounds or facilities where children of similar age or circumstance as a previous victim are present who the department determines may be put at substantial risk of harm by the sex offender's residence at that location.

(b) In addition, for any offender prohibited from living in a community protection zone under RCW 9.94A.712(6)(a)(ii), the department may not approve a residence location if the proposed residence is in a community protection zone.

(4) When the department requires supervised visitation as a term or condition of a sex offender's community placement under RCW 9.94A.700(6), the department shall, prior to approving a supervisor, consider the following:

(a) The relationships between the proposed supervisor, the offender, and the minor; (b) the proposed supervisor's acknowledgment and understanding of the offender's prior criminal conduct, general knowledge of the dynamics of child sexual abuse, and willingness and ability to protect the minor from the potential risks posed by contact with the offender; and (c) recommendations made by the department of social and health services about the best interests of the child.

NEW SECTION. Sec. 4. (1) The joint task force on sex offender management is established to examine issues of community safety and the management of sex offenders in the community and shall work in collaboration with the partnership for community safety. The task force shall be composed of one member of each of the two largest caucuses of the senate, appointed by the president of the senate; one member of each of the two largest caucuses of the house of representatives, appointed by the speaker of the house; the secretary of the department of corrections; the superintendent of public instruction; the secretary of the department of social and health services; the attorney general; the executive director of the Washington association of sheriffs and police chiefs; the executive director of the indeterminate sentence review board; the chair of the end of sentence review committee; the executive director of the criminal justice training commission; and a representative each of the broadcast media and the print media, appointed by the governor. The task force shall be chaired by one of the legislative members, selected by the task force members.

(2) The task force shall make recommendations to the governor and the legislature not later than December 1, 2005, on the following subjects:

(a) The effectiveness of community protection zones and other strategies to promote community safety, including recommendations on proactive and reactive approaches to sex offender residence locations and any statutory, constitutional, or practical limitations on the state's ability to address sex offender housing requirements;

(b) Standardization of the community sex offender notification process;

(c) Applicability of the public disclosure act to sex offender information sharing;

(d) The training needs of law enforcement, criminal justice staff, and school personnel to increase community safety in relationship to sex offender notification and management strategies; and

(e) The impact and advisability of prenotification of local government officials related to sex offender residence location.

NEW SECTION. Sec. 5. A new section is added to chapter 9.94A RCW to read as follows:

Law enforcement agencies and the department of corrections are immune from civil liability for damages from discretionary decisions made under this act if they make a good faith effort to comply with this act.

NEW SECTION. Sec. 6. This act expires July 1, 2006.

Passed by the House April 18, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 437

[Engrossed House Bill 1187]

JUVENILE OFFENDERS—SENTENCING

AN ACT Relating to elimination of mandatory minimum sentences for youthful offenders tried as adults; amending RCW 9.94A.540; 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 emerging research on brain development indicates that adolescent brains, and thus adolescent intellectual and emotional capabilities, differ significantly from those of mature adults. It is appropriate to take these differences into consideration when sentencing juveniles tried as adults. The legislature further finds that applying mandatory minimum sentences for juveniles tried as adults prevents trial court judges from taking these differences into consideration in appropriate circumstances.

(2) The legislature intends to eliminate the application of mandatory minimum sentences under RCW 9.94A.540 to juveniles tried as adults, and to continue to apply all other adult sentencing provisions to juveniles tried as adults.

Sec. 2. RCW 9.94A.540 and 2001 2nd sp.s. c 12 s 315 are each amended to read as follows:

(1) Except to the extent provided in subsection (3) of this section, the following minimum terms of total confinement are mandatory and shall not be varied or modified under RCW 9.94A.535:

(a) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years.

(b) An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years.

(c) An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years.

(d) An offender convicted of the crime of sexually violent predator escape shall be sentenced to a minimum term of total confinement not less than sixty months.

(2) During such minimum terms of total confinement, no offender subject to the provisions of this section is eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (a) In the case of an offender in need of emergency medical

treatment; (b) for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree; or (c) for an extraordinary medical placement when authorized under RCW 9.94A.728(4).

(3)(a) Subsection (1) of this section shall not be applied in sentencing of juveniles tried as adults pursuant to RCW 13.04.030(1)(e)(i).

(b) This subsection (3) applies only to crimes committed on or after the effective date of this act.

Passed by the House April 21, 2005.

Passed by the Senate April 21, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 438

[Second Substitute House Bill 1188]

STATE PATROL—WAGE NEGOTIATIONS

AN ACT Relating to negotiating state patrol officer wages and wage-related matters; and amending RCW 41.56.473 and 41.56.475.

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

Sec. 1. RCW 41.56.473 and 1999 c 217 s 3 are each amended to read as follows:

(1) In addition to the entities listed in RCW 41.56.020, this chapter applies to the ~~((Washington))~~ state ~~((patrol))~~ with respect to the officers of the Washington state patrol appointed under RCW 43.43.020~~((Subjects of bargaining include wage related matters))~~, except that the ~~((Washington))~~ state ~~((patrol))~~ is prohibited from negotiating ~~((rates of pay or wage levels and))~~ any matters relating to retirement benefits or health care benefits or other employee insurance benefits.

(2) For the purposes of negotiating wages, wage-related matters, and nonwage matters, the state shall be represented by the governor or the governor's designee who is appointed under chapter 41.80 RCW, and costs of the negotiations under this section shall be reimbursed as provided in RCW 41.80.140.

(3) The governor or the governor's designee shall consult with the chief of the Washington state patrol regarding collective bargaining.

(4) The negotiation of provisions pertaining to wages and wage-related matters in a collective bargaining agreement between the ~~((Washington))~~ state ~~((patrol))~~ and the Washington state patrol officers is subject to the following:

(a) The state's bargaining representative must periodically consult with a subcommittee of the joint committee on employment relations created in RCW 41.80.010(5) which shall consist of the four members appointed to the joint committee with leadership positions in the senate and the house of representatives, and the chairs and ranking minority members of the senate transportation committee and the house transportation committee, or their successor committees. The subcommittee must be consulted regarding the appropriations necessary to implement these provisions in a collective

bargaining agreement and, on completion of negotiations, must be advised on the elements of these provisions.

(b) Provisions that are entered into before the legislature approves the funds necessary to implement the provisions must be conditioned upon the legislature's subsequent approval of the funds.

(5) The governor shall submit a request for funds necessary to implement the wage and wage-related matters in the collective bargaining agreement or for legislation necessary to implement the agreement. Requests for funds necessary to implement the provisions of bargaining agreements may not be submitted to the legislature by the governor unless such requests:

(a) Have been submitted to the director of financial management by October 1st before the legislative session at which the requests are to be considered; and

(b) Have been certified by the director of financial management as being feasible financially for the state or reflects the decision of an arbitration panel reached under RCW 41.56.475.

Sec. 2. RCW 41.56.475 and 1999 c 217 s 4 are each amended to read as follows:

In addition to the classes of employees listed in RCW 41.56.030(7), the provisions of RCW 41.56.430 through 41.56.452 and 41.56.470, 41.56.480, and 41.56.490 also apply to Washington state patrol officers appointed under RCW 43.43.020 as provided in this section, subject to the following:

(1) The mediator or arbitration panel may consider only matters that are subject to bargaining under RCW 41.56.473.

(2) The decision of an arbitration panel is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to wages and wage-related matters of an arbitrated collective bargaining agreement, is not binding on the state or the Washington state patrol.

(3) In making its determination, the arbitration panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

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

(b) Stipulations of the parties;

(c) Comparison of the hours and conditions of employment of personnel involved in the proceedings with the hours and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(d) Changes in any of the foregoing circumstances during the pendency of the proceedings; and

(e) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under RCW 41.56.473.

Passed by the House April 21, 2005.

Passed by the Senate April 20, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 439

[Substitute House Bill 1280]

KINSHIP CARE OVERSIGHT COMMITTEE

AN ACT Relating to the kinship care oversight committee; adding a new section to chapter 74.13 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 74.13 RCW to read as follows:

(1) Within existing resources, the department shall establish an oversight committee to monitor, guide, and report on kinship care recommendations and implementation activities. The committee shall:

(a) Draft a kinship care definition that is restricted to persons related by blood, marriage, or adoption, including marriages that have been dissolved, or for a minor defined as an "Indian child" under the federal Indian child welfare act (25 U.S.C. Sec. 1901 et seq.), the definition of "extended family member" under the federal Indian child welfare act, and a set of principles. If the committee concludes that one or more programs or services would be more efficiently and effectively delivered under a different definition of kin, it shall state what definition is needed, and identify the program or service in the report. It shall also provide evidence of how the program or service will be more efficiently and effectively delivered under the different definition. The department shall not adopt rules or policies changing the definition of kin without authorizing legislation;

(b) Monitor and provide consultation on the implementation of recommendations contained in the 2002 kinship care report, including but not limited to the recommendations relating to legal and respite care services and resources;

(c) Partner with nonprofit organizations and private sector businesses to guide a public education awareness campaign; and

(d) Assist with developing future recommendations on kinship care issues.

(2) The department shall consult with the oversight committee on its efforts to better collaborate and coordinate services to benefit kinship care families.

(3) The oversight committee must consist of a minimum of thirty percent kinship caregivers, who shall represent a diversity of kinship families. Statewide representation with geographic, ethnic, and gender diversity is required. Other members shall include representatives of the department, representatives of relevant state agencies, representatives of the private nonprofit and business sectors, child advocates, representatives of Washington state Indian tribes as defined under the federal Indian welfare act (25 U.S.C. Sec. 1901 et seq.), and representatives of the legal or judicial field. Birth parents, foster parents, and others who have an interest in these issues may also be included.

(4) To the extent funding is available, the department may reimburse nondepartmental members of the oversight committee for costs incurred in participating in the meetings of the oversight committee.

(5) The kinship care oversight committee shall update the legislature and governor annually on committee activities, with the first update due by January 1, 2006.

(6) This section expires January 1, 2010.

Passed by the House April 19, 2005.

Passed by the Senate April 15, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 440

[Substitute House Bill 1281]

KINSHIP CARE—MEDICAL CARE

AN ACT Relating to adding to the list of persons who may give informed consent to medical care for minors and providing immunity to health care providers and facilities for reliance on the representation of a person claiming to be responsible for the care of the minor; amending RCW 7.70.065; and creating a new section.

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

NEW SECTION. Sec. 1. (1) It is the intent of the legislature to assist children in the care of kin to access appropriate medical services. Children being raised by kin have faced barriers to medical care because their kinship caregivers have not been able to verify that they are the identified primary caregivers of these children. Such barriers pose an especially significant challenge to kinship caregivers in dealing with health professionals when children are left in their care.

(2) It is the intent of the legislature to assist kinship caregivers in accessing appropriate medical care to meet the needs of a child in their care by permitting such responsible adults who are providing care to a child to give informed consent to medical care.

Sec. 2. RCW 7.70.065 and 2003 c 283 s 29 are each amended to read as follows:

(1) Informed consent for health care for a patient who is not competent, as defined in RCW 11.88.010(1)(e), to consent may be obtained from a person authorized to consent on behalf of such patient.

(a) Persons authorized to provide informed consent to health care on behalf of a patient who is not competent to consent, based upon a reason other than incapacity as defined in RCW 11.88.010(1)(d), shall be a member of one of the following classes of persons in the following order of priority:

~~((a))~~ (i) The appointed guardian of the patient, if any;

~~((b))~~ (ii) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;

~~((c))~~ (iii) The patient's spouse;

~~((d))~~ (iv) Children of the patient who are at least eighteen years of age;

~~((e))~~ (v) Parents of the patient; and

~~((f))~~ (vi) Adult brothers and sisters of the patient.

~~((2))~~ (b) If the ~~(physician)~~ health care provider seeking informed consent for proposed health care of the patient who is not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the

next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

~~((a))~~ (i) If a person of higher priority under this section has refused to give such authorization; or

~~((b))~~ (ii) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

~~((c))~~ (c) Before any person authorized to provide informed consent on behalf of a patient not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, exercises that authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.

(2) Informed consent for health care for a patient who is not competent, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, may be obtained from a person authorized to consent on behalf of such a patient.

(a) Persons authorized to provide informed consent to health care on behalf of a patient who is incapacitated, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, shall be a member of one of the following classes of persons in the following order of priority:

(i) The appointed guardian, or legal custodian authorized pursuant to Title 26 RCW, of the minor patient, if any;

(ii) A person authorized by the court to consent to medical care for a child in out-of-home placement pursuant to chapter 13.32A or 13.34 RCW, if any;

(iii) Parents of the minor patient;

(iv) The individual, if any, to whom the minor's parent has given a signed authorization to make health care decisions for the minor patient; and

(v) A competent adult representing himself or herself to be a relative responsible for the health care of such minor patient or a competent adult who has signed and dated a declaration under penalty of perjury pursuant to RCW 9A.72.085 stating that the adult person is a relative responsible for the health care of the minor patient. Such declaration shall be effective for up to six months from the date of the declaration.

(b) A health care provider may, but is not required to, rely on the representations or declaration of a person claiming to be a relative responsible for the care of the minor patient, under (a)(v) of this subsection, if the health care provider does not have actual notice of the falsity of any of the statements made by the person claiming to be a relative responsible for the health care of the minor patient.

(c) A health care facility or a health care provider may, in its discretion, require documentation of a person's claimed status as being a relative responsible for the health care of the minor patient. However, there is no obligation to require such documentation.

(d) The health care provider or health care facility where services are rendered shall be immune from suit in any action, civil or criminal, or from

professional or other disciplinary action when such reliance is based on a declaration signed under penalty of perjury pursuant to RCW 9A.72.085 stating that the adult person is a relative responsible for the health care of the minor patient under (a)(v) of this subsection.

(3) For the purposes of this section, "health care provider" and "health care facility" shall be defined as established in RCW 70.02.010.

Passed by the House April 18, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 441

[Engrossed House Bill 1561]

LIFE INSURANCE—TRAVEL

AN ACT Relating to prohibiting discrimination in life insurance based on lawful travel destinations; 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) No life insurer may deny or refuse to accept an application for insurance, or refuse to insure, refuse to renew, cancel, restrict, or otherwise terminate a policy of insurance, or charge a different rate for the same coverage, based upon the applicant's or insured person's past or future lawful travel destinations.

(2) Nothing in this section prohibits a life insurer from excluding or limiting coverage of specific lawful travel, or charging a differential rate for such coverage, when bona fide statistical differences in risk or exposure have been substantiated.

Passed by the House April 18, 2005.

Passed by the Senate April 7, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 442

[House Bill 1386]

HISTORICAL DOCUMENTS—SURCHARGE

AN ACT Relating to the surcharge for preservation of historical documents; and amending RCW 36.22.170.

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

Sec. 1. RCW 36.22.170 and 1993 c 37 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, a surcharge of ~~((two))~~ five dollars per instrument shall be charged by the county auditor for each document recorded, which will be in addition to any other charge authorized by law. ~~((Fifty percent))~~ One dollar of the surcharge shall be deposited in the county general fund to be used at the discretion of the county commissioners to

promote historical preservation or historical programs, which may include preservation of historic documents.

(b) A surcharge of two dollars per instrument shall be charged by the county auditor for each document presented for recording by the employment security department, which will be in addition to any other charge authorized by law.

(2) Of the remaining revenue generated through ((this)) the surcharges under subsection (1) of this section: (a) Fifty percent shall be transmitted monthly to the state treasurer who shall distribute such funds to each county treasurer within the state in July of each year in accordance with the formula described in RCW 36.22.190. The county treasurer shall place the funds received in a special account titled the auditor's centennial document preservation and modernization account to be used solely for ongoing preservation of historical documents of all county offices and departments and shall not be added to the county current expense fund((-)); and

(b) Fifty percent ((of the revenue generated by this surcharge)) shall be retained by the county and deposited in the auditor's operation and maintenance fund for ongoing preservation of historical documents of all county offices and departments.

(3) The centennial document preservation and modernization account is hereby created in the custody of the state treasurer and shall be classified as a treasury trust account. State distributions from the centennial document preservation and modernization account shall be made without appropriation.

Passed by the House April 18, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 443

[Substitute House Bill 1299]

TAX PREFERENCES—OUTDATED PREFERENCES REPEALED

AN ACT Relating to repealing outdated and unused tax preferences; amending RCW 15.76.165, 43.52.460, 82.08.0255, and 82.12.0256; reenacting and amending RCW 82.04.260; creating a new section; repealing RCW 82.35.010, 82.35.020, 82.35.040, 82.35.050, 82.35.070, 82.35.080, 82.35.900, 82.61.010, 82.61.030, 82.61.050, 82.61.060, 82.61.080, 82.61.090, 82.61.900, 82.61.901, 48.14.029, 82.04.4329, 82.08.0276, 82.08.0295, 82.12.0295, 82.12.02545, and 84.56.450; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that a number of tax exemptions, deductions, credits, and other preferences have outlived their usefulness. State records show no taxpayers have claimed relief under these tax preferences in recent years. The intent of this act is to update and simplify the tax statutes by repealing these outdated tax preferences.

Sec. 2. RCW 15.76.165 and 1973 c 117 s 1 are each amended to read as follows:

Any county which owns or leases property from another governmental agency and provides such property for area or county and district agricultural fair purposes may apply to the director for special assistance in carrying out necessary capital improvements to such property and maintenance of the

appurtenances thereto(~~(, and in the event such property and capital improvements are leased to any organization conducting an agricultural fair pursuant to chapter 15.76 RCW and chapter 257 of the Laws of 1955, such leasehold and such leased property shall be exempt from real and personal property taxation)~~)).

Sec. 3. RCW 43.52.460 and 1971 ex.s. c 75 s 1 are each amended to read as follows:

Any joint operating agency formed under this chapter shall pay in lieu of taxes payments in the same amounts as paid by public utility districts. Such payments shall be distributed in accordance with the provisions applicable to public utility districts(~~(: PROVIDED, HOWEVER, That such tax shall not apply to steam generated electricity produced by a nuclear steam powered electric generating facility constructed or acquired by a joint operating agency and in operation prior to May 17, 1971)~~)).

Sec. 4. RCW 82.04.260 and 2003 2nd sp.s. c 1 s 4 and 2003 2nd sp.s. c 1 s 3 are each reenacted and amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola byproducts, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour, pearl barley, oil, canola meal, or canola byproduct manufactured, multiplied by the rate of 0.138 percent;

(b) Seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of 0.138 percent;

(c) By canning, preserving, freezing, processing, or dehydrating fresh fruits and vegetables, or selling at wholesale fresh fruits and vegetables canned, preserved, frozen, processed, or dehydrated by the seller and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business shall be equal to the value of the products canned, preserved, frozen, processed, or dehydrated multiplied by the rate of 0.138 percent. As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record;

(d) Dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed shall be equal to the value of the products manufactured multiplied by the rate of 0.138 percent. As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record;

(e) Alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect

to the business shall be equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent. This subsection (1)(e) expires July 1, 2009; and

(f) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel or wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

~~(5) ((Upon every person engaging within this state in the business of making sales, at retail or wholesale, of nuclear fuel assemblies manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the assemblies multiplied by the rate of 0.275 percent.~~

~~(6) Upon every person engaging within this state in the business of manufacturing nuclear fuel assemblies, as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of 0.275 percent.~~

~~(7))~~ Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~((8))~~ (6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~((9))~~ (7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign

commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

~~((H))~~ (8) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business shall be equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state shall be determined in accordance with the methods of apportionment required under RCW 82.04.460.

~~((H))~~ (9) Upon every person engaging within this state as an insurance agent, insurance broker, or insurance solicitor licensed under chapter 48.17 RCW; as to such persons, the amount of the tax with respect to such licensed activities shall be equal to the gross income of such business multiplied by the rate of 0.484 percent.

~~((H))~~ (10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities shall be equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.

~~((H))~~ (11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, as to such persons the amount of tax with respect to such business shall, in the case of manufacturers, be equal to the value of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(b) Beginning October 1, 2005, upon every person engaging within this state in the business of making sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the airplanes or components multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(c) For the purposes of this subsection (~~((13))~~) (11), "commercial airplane," "component," and "final assembly of a superefficient airplane" have the meanings given in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection (~~((13))~~) (11) must report as required under RCW 82.32.545.

(e) This subsection (~~((13))~~) (11) does not apply after the earlier of: July 1, 2024; or December 31, 2007, if assembly of a superefficient airplane does not begin by December 31, 2007, as determined under RCW 82.32.550.

Sec. 5. RCW 82.08.0255 and 1998 c 176 s 4 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of(~~(:~~

~~(a) Motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes; and~~

~~(b))~~ motor vehicle and special fuel if:

~~((1))~~ (a) The fuel is purchased for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

~~((2))~~ (b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

~~((3))~~ (c) The fuel is taxable under chapter 82.36 or 82.38 RCW.

(2) Any person who has paid the tax imposed by RCW 82.08.020 on the sale of special fuel delivered in this state shall be entitled to a credit or refund of such tax with respect to fuel subsequently established to have been actually transported and used outside this state by persons engaged in interstate commerce. The tax shall be claimed as a credit or refunded through the tax reports required under RCW 82.38.150.

Sec. 6. RCW 82.12.0256 and 1998 c 176 s 5 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of:

(1) (~~(Motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes; and~~

~~(2))~~ Special fuel purchased in this state upon which a refund is obtained as provided in RCW 82.38.180(2); and

~~((3))~~ (2) Motor vehicle and special fuel if:

(a) The fuel is used for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is taxable under chapter 82.36 or 82.38 RCW: PROVIDED, That the use of motor vehicle and special fuel upon which a refund of the applicable fuel tax is obtained shall not be exempt under this subsection (~~((3))~~) (2)(c), and the director of licensing shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue.

NEW SECTION. Sec. 7. The following acts or parts of acts are each repealed:

- (1) RCW 82.35.010 (Intent) and 1979 ex.s. c 191 s 1;
- (2) RCW 82.35.020 (Definitions) and 1996 c 186 s 521 & 1979 ex.s. c 191 s 2;
- (3) RCW 82.35.040 (Issuance of certificate—Limitations—Tabulation of costs incurred—Administrative rules) and 1982 1st ex.s. c 2 s 3 & 1979 ex.s. c 191 s 4;
- (4) RCW 82.35.050 (Credit against taxes—Conditions—Amount—Limitations) and 1982 1st ex.s. c 2 s 1 & 1979 ex.s. c 191 s 5;
- (5) RCW 82.35.070 (Issuance of certificate or supplement and notice of refusal to issue certificate or supplement—Certified mail) and 1979 ex.s. c 191 s 7;
- (6) RCW 82.35.080 (Revocation of certificate—Grounds—Continuance of certificate—Liability for money saved—Technical assistance) and 1999 c 358 s 15, 1996 c 186 s 522, & 1979 ex.s. c 191 s 8;
- (7) RCW 82.35.900 (Severability—1979 ex.s. c 191) and 1979 ex.s. c 191 s 13;
- (8) RCW 82.61.010 (Definitions) and 1995 1st sp.s. c 3 s 10, 1994 c 125 s 1, 1988 c 41 s 1, 1987 c 497 s 1, 1986 c 116 s 9, & 1985 ex.s. c 2 s 1;
- (9) RCW 82.61.030 (Tax deferral—Eligibility) and 1987 c 497 s 3 & 1985 ex.s. c 2 s 3;
- (10) RCW 82.61.050 (Issuance of tax deferral certificate) and 1985 ex.s. c 2 s 4;
- (11) RCW 82.61.060 (Repayment schedule) and 1987 c 497 s 4 & 1985 ex.s. c 2 s 5;
- (12) RCW 82.61.080 (Applicability of general administrative provisions) and 1985 ex.s. c 2 s 7;
- (13) RCW 82.61.090 (Applications and information subject to disclosure) and 1987 c 49 s 2;
- (14) RCW 82.61.900 (Severability—1987 c 497) and 1987 c 497 s 5;
- (15) RCW 82.61.901 (Severability—1988 c 41) and 1988 c 41 s 6;
- (16) RCW 48.14.029 (Premium tax credit—New employment for international service activities in eligible areas—Designation of census tracts for eligibility—Records—Tax due upon ineligibility—Interest assessment—Information from employment security department) and 2003 c 248 s 3 & 1998 c 313 s 3;

(17) RCW 82.04.4329 (Deductions—Health insurance pool members—Deficit assessments) and 1987 c 431 s 24;

(18) RCW 82.08.0276 (Exemptions—Sales of wearing apparel for use only as a sample for display for sale) and 1980 c 37 s 42;

(19) RCW 82.08.0295 (Exemptions—Lease amounts and repurchase amount for certain property under sale/leaseback agreement) and 1986 c 231 s 3;

(20) RCW 82.12.0295 (Exemptions—Lease amounts and repurchase amount for certain property under sale/leaseback agreement) and 1986 c 231 s 4;

(21) RCW 82.12.02545 (Exemption—Use of naval aircraft training equipment transferred due to base closure) and 1995 c 128 s 1; and

(22) RCW 84.56.450 (Year 2000 failure—No interest or penalties—Payment of tax) and 1999 c 369 s 6.

NEW SECTION. Sec. 8. This act takes effect July 1, 2006.

Passed by the House April 18, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 444

[House Bill 1469]

COMMERCIAL MOTOR VEHICLE VIOLATIONS—PENALTY RECOVERY

AN ACT Relating to proceedings for violations of commercial motor vehicle laws, rules, and orders; and amending RCW 46.32.100.

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

Sec. 1. RCW 46.32.100 and 1998 c 172 s 1 are each amended to read as follows:

In addition to all other penalties provided by law, a commercial motor vehicle that is subject to terminal safety audits under this chapter and an officer, agent, or employee of a company operating a commercial motor vehicle who violates or who procures, aids, or abets in the violation of this title or any order or rule of the state patrol is liable for a penalty of one hundred dollars for each violation, except for each violation of 49 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec. 396.9(c)(2), moving a vehicle placed out of service before the out of service defects have been satisfactorily repaired, for which the person is liable for a penalty of five hundred dollars. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

The penalty provided in this section is due and payable when the person incurring it receives a notice in writing from the patrol describing the violation and advising the person that the penalty is due. The patrol may, upon written application for review, received within fifteen days, remit or mitigate a penalty provided for in this section or discontinue a prosecution to recover the penalty upon such terms it deems proper and may ascertain the facts upon all such applications in such manner and under such rules as it deems proper. If the amount of the penalty is not paid to the patrol within fifteen days after receipt of the notice imposing the penalty, or application for remission or mitigation has

not been made within fifteen days after the violator has received notice of the disposition of the application, the ~~((attorney general shall bring an action))~~ patrol may commence an adjudicative proceeding under chapter 34.05 RCW in the name of the state of Washington ~~((in the superior court of Thurston county or of some other county in which the violator does business,))~~ to confirm the violation and recover the penalty. In all such ~~((actions))~~ proceedings the procedure and rules of evidence are ~~((the same as an ordinary civil action))~~ as specified in chapter 34.05 RCW except as otherwise provided in this chapter. All penalties recovered under this section shall be paid into the state treasury and credited to the state patrol highway account of the motor vehicle fund.

Passed by the House April 19, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 445

[Engrossed Substitute Senate Bill 5034]

CAMPAIGN FUNDING

AN ACT Relating to disclosure of and restrictions on campaign funding; amending RCW 42.17.020, 42.17.103, 42.17.110, 42.17.510, 42.17.530, and 42.17.660; reenacting and amending RCW 42.17.640; adding new sections to chapter 42.17 RCW; creating a new section; repealing RCW 42.17.505; providing effective dates; and declaring an emergency.

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

PART I - FINDINGS AND INTENT

NEW SECTION. Sec. 1. The legislature finds that:

(1) Timely disclosure to voters of the identity and sources of funding for electioneering communications is vitally important to the integrity of state, local, and judicial elections.

(2) Electioneering communications that identify political candidates for state, local, or judicial office and that are distributed sixty days before an election for those offices are intended to influence voters and the outcome of those elections.

(3) The state has a compelling interest in providing voters information about electioneering communications in political campaigns concerning candidates for state, local, or judicial office so that voters can be fully informed as to the: (a) Source of support or opposition to those candidates; and (b) identity of persons attempting to influence the outcome of state, local, and judicial candidate elections.

(4) Nondisclosure of financial information about advertising that masquerades as relating only to issues and not to candidate campaigns fosters corruption or the appearance of corruption. These consequences can be substantially avoided by full disclosure of the identity and funding of those persons paying for such advertising.

(5) The United States supreme court held in *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003) that speakers seeking to influence elections do not possess an inviolable free speech

right to engage in electioneering communications regarding elections, including when issue advocacy is the functional equivalent of express advocacy. Therefore, such election campaign communications can be regulated and the source of funding disclosed.

(6) The state also has a sufficiently compelling interest in preventing corruption in political campaigns to justify and restore contribution limits and restrictions on the use of soft money in RCW 42.17.640. Those interests include restoring restrictions on the use of such funds for electioneering communications, as well as the laws preventing circumvention of those limits and restrictions.

NEW SECTION. Sec. 2. Based upon the findings in section 1 of this act, this act is narrowly tailored to accomplish the following and is intended to:

(1) Improve the disclosure to voters of information concerning persons and entities seeking to influence state, local, and judicial campaigns through reasonable and effective mechanisms, including improving disclosure of the source, identity, and funding of electioneering communications concerning state, local, and judicial candidate campaigns;

(2) Regulate electioneering communications that mention state, local, and judicial candidates and that are broadcast, mailed, erected, distributed, or otherwise published right before the election so that the public knows who is paying for such communications;

(3) Reenact and amend the contribution limits in RCW 42.17.640 (6) and (14) and the restrictions on the use of soft money, including as applied to electioneering communications, as those limits and restrictions were in effect following the passage of chapter 2, Laws of 1993 (Initiative No. 134) and before the state supreme court decision in *Washington State Republican Party v. Washington State Public Disclosure Commission*, 141 Wn.2d 245, 4 P.3d 808 (2000). The commission is authorized to fully restore the implementation of the limits and restrictions of RCW 42.17.640 (6) and (14) in light of *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003). The United States supreme court upheld the disclosure and regulation of electioneering communications in political campaigns, including but not limited to issue advocacy that is the functional equivalent of express advocacy;

(4) Authorize the commission to adopt rules to implement this act.

PART II - ELECTIONEERING COMMUNICATIONS

NEW SECTION. Sec. 3. (1) A payment for or promise to pay for any electioneering communication shall be reported to the commission by the sponsor on forms the commission shall develop by rule to include, at a minimum, the following information:

(a) Name and address of the sponsor;

(b) Source of funds for the communication, including:

(i) General treasury funds. The name and address of businesses, unions, groups, associations, or other organizations using general treasury funds for the communication, however, if a business, union, group, association, or other organization undertakes a special solicitation of its members or other persons for an electioneering communication, or it otherwise receives funds for an

electioneering communication, that entity shall report pursuant to (b)(ii) of this subsection;

(ii) Special solicitations and other funds. The name, address, and, for individuals, occupation and employer, of a person whose funds were used to pay for the electioneering communication, along with the amount, if such funds from the person have exceeded two hundred fifty dollars in the aggregate for the electioneering communication; and

(iii) Any other source information required or exempted by the commission by rule;

(c) Name and address of the person to whom an electioneering communication related expenditure was made;

(d) A detailed description of each expenditure of more than one hundred dollars;

(e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published;

(f) The amount of the expenditure;

(g) The name of each candidate clearly identified in the electioneering communication, the office being sought by each candidate, and the amount of the expenditure attributable to each candidate; and

(h) Any other information the commission may require or exempt by rule.

(2) Electioneering communications shall be reported as follows: The sponsor of an electioneering communication shall report to the commission within twenty-four hours of, or on the first working day after, the date the electioneering communication is broadcast, transmitted, mailed, erected, distributed, or otherwise published.

(3) Electioneering communications shall be reported electronically by the sponsor using software provided or approved by the commission. The commission may make exceptions on a case-by-case basis for a sponsor who lacks the technological ability to file reports using the electronic means provided or approved by the commission.

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, and 42.17.100 are subject to the requirements of this section, although the commission may determine by rule that persons filing according to those sections may be exempt from reporting some of the information otherwise required by this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100 and 42.17.103.

(5) Failure of any sponsor to report electronically under this section shall be a violation of this chapter.

NEW SECTION. Sec. 4. (1) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents is a contribution to the candidate.

(2) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a political committee or its agents is a contribution to the political committee.

(3) If an electioneering communication is not a contribution pursuant to subsection (1) or (2) of this section, the sponsor shall file an affidavit or

declaration so stating at the time the sponsor is required to report the electioneering communication expense under section 3 of this act.

NEW SECTION. Sec. 5. (1) The sponsor of an electioneering communication shall preserve all financial records relating to the communication, including books of account, bills, receipts, contributor information, and ledgers, for not less than five calendar years following the year in which the communication was broadcast, transmitted, mailed, erected, or otherwise published.

(2) All reports filed under section 3 of this act shall be certified as correct by the sponsor. If the sponsor is an individual using his or her own funds to pay for the communication, the certification shall be signed by the individual. If the sponsor is a political committee, the certification shall be signed by the committee treasurer. If the sponsor is another entity, the certification shall be signed by the individual responsible for authorizing the expenditure on the entity's behalf.

PART III - AMENDMENTS TO AND REENACTMENT OF CURRENT LAWS

Sec. 6. RCW 42.17.020 and 2002 c 75 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) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

~~((2))~~ (3) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

~~((3))~~ (4) "Ballot proposition" means any "measure" as defined by RCW ~~((29.01.110))~~ 29A.04.091, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency prior to its circulation for signatures.

~~((4))~~ (5) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

~~((5))~~ (6) "Bona fide political party" means:

(a) An organization that has filed a valid certificate of nomination with the secretary of state under chapter ~~((29.24))~~ 29A.20 RCW;

(b) The governing body of the state organization of a major political party, as defined in RCW (~~(29.01.090)~~) 29A.04.086, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

~~((6))~~ (7) "Depository" means a bank designated by a candidate or political committee pursuant to RCW 42.17.050.

~~((7))~~ (8) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050, to perform the duties specified in that section.

~~((8))~~ (9) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or

(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

~~((9))~~ (10) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

~~((10))~~ (11) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

~~((11))~~ (12) "Commission" means the agency established under RCW 42.17.350.

~~((12))~~ (13) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind: PROVIDED, That for the purpose of compliance with RCW 42.17.241, the term "compensation" shall not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

~~((13))~~ (14) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

~~((14))~~ (15)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising or electioneering communication prepared by a candidate, a political committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Standard interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts towards any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

~~((15))~~ (16) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

~~((16))~~ (17) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters: PROVIDED, That an election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

~~((17))~~ (18) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

~~((18))~~ (19) "Election cycle" means the period beginning on the first day of December after the date of the last previous general election for the office that the candidate seeks and ending on November 30th after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on November 30th after the special election.

~~((19))~~ (20) "Electioneering communication" means any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that:

(a) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;

(b) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and

(c) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value of five thousand dollars or more.

(21) "Electioneering communication" does not include:

(a) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding his or her becoming a candidate;

(b) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as two or more candidates for the same position have been invited to participate in the debate or forum;

(c) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

(i) Of primary interest to the general public;

(ii) In a news medium controlled by a person whose business is that news medium; and

(iii) Not a medium controlled by a candidate or a political committee;

(d) Slate cards and sample ballots;

(e) Advertising for books, films, dissertations, or similar works (i) written by a candidate when the candidate entered into a contract for such publications

or media at least twelve months before becoming a candidate, or (ii) written about a candidate;

(f) Public service announcements;

(g) A mailed internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(h) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

(i) Any other communication exempted by the commission through rule consistent with the intent of this chapter.

(22) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. The term "expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.

~~((20))~~ (23) "Final report" means the report described as a final report in RCW 42.17.080(2).

~~((21))~~ (24) "General election" for the purposes of RCW 42.17.640 means the election that results in the election of a person to a state office. It does not include a primary.

~~((22))~~ (25) "Gift," is as defined in RCW 42.52.010.

~~((23))~~ (26) "Immediate family" includes the spouse, dependent children, and other dependent relatives, if living in the household. For the purposes of RCW 42.17.640 through 42.17.790, "immediate family" means an individual's spouse, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse and the spouse of any such person.

~~((24))~~ (27) "Incumbent" means a person who is in present possession of an elected office.

(28) "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the

expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of five hundred dollars or more. A series of expenditures, each of which is under five hundred dollars, constitutes one independent expenditure if their cumulative value is five hundred dollars or more.

~~((25))~~ (29)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family as defined for purposes of RCW 42.17.640 through 42.17.790, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

~~((26))~~ (30) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

~~((27))~~ (31) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

~~((28))~~ (32) "Lobbyist" includes any person who lobbies either in his or her own or another's behalf.

~~((29))~~ (33) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he or she is compensated for acting as a lobbyist.

~~((30))~~ (34) "Participate" means that, with respect to a particular election, an entity:

(a) Makes either a monetary or in-kind contribution to a candidate;

(b) Makes an independent expenditure or electioneering communication in support of or opposition to a candidate;

(c) Endorses a candidate prior to contributions being made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent;

(d) Makes a recommendation regarding whether a candidate should be supported or opposed prior to a contribution being made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent; or

(e) Directly or indirectly collaborates or consults with a subsidiary corporation or local unit on matters relating to the support of or opposition to a candidate, including, but not limited to, the amount of a contribution, when a contribution should be given, and what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

(35) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

~~((31))~~ (36) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.

~~((32))~~ (37) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

~~((33))~~ (38) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

~~((34))~~ (39) "Primary" for the purposes of RCW 42.17.640 means the procedure for nominating a candidate to state office under chapter ~~((29.18 or 29.21))~~ 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter ~~((29.18 or 29.21))~~ 29A.52 RCW.

~~((35))~~ (40) "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

~~((36))~~ (41) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

~~((37))~~ (42) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW ~~((29.82.015))~~ 29A.56.120 and ending thirty days after the recall election.

~~((38))~~ (43) "Sponsor of an electioneering communications, independent expenditures, or political advertising" means the person paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(44) "State legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

~~((39))~~ (45) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

~~((40))~~ (46) "State official" means a person who holds a state office.

~~((41))~~ (47) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate prior to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065.

~~((42))~~ (48) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires.

Sec. 7. RCW 42.17.103 and 2001 c 54 s 1 are each amended to read as follows:

(1) The sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more shall deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.

(2) If a sponsor is required to file a special report under this section, the sponsor shall also deliver to the commission within the delivery period established in subsection (1) of this section a special report for each subsequent independent expenditure of any size supporting or opposing the same candidate who was the subject of the previous independent expenditure, supporting or opposing that candidate's opponent, or supporting or opposing the same ballot proposition that was the subject of the previous independent expenditure.

(3) The special report must include at least:

- (a) The name and address of the person making the expenditure;
- (b) The name and address of the person to whom the expenditure was made;
- (c) A detailed description of the expenditure;
- (d) The date the expenditure was made and the date the political advertising was first published or otherwise presented to the public;
- (e) The amount of the expenditure;
- (f) The name of the candidate supported or opposed by the expenditure, the office being sought by the candidate, and whether the expenditure supports or opposes the candidate; or the name of the ballot proposition supported or opposed by the expenditure and whether the expenditure supports or opposes the ballot proposition; and
- (g) Any other information the commission may require by rule.

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, ~~((and))~~ 42.17.100, and section 3 of this act are subject to the requirements of this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100.

(5) The sponsor of independent expenditures supporting a candidate or opposing that candidate's opponent required to report under this section shall file with each required report an affidavit or declaration of the person responsible for making the independent expenditure that the expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, the candidate, the candidate's authorized committee, or the candidate's agent, or with the encouragement or approval of the candidate, the candidate's authorized committee, or the candidate's agent.

Sec. 8. RCW 42.17.110 and 1975-'76 2nd ex.s. c 112 s 5 are each amended to read as follows:

(1) Each commercial advertiser who has accepted or provided political advertising or electioneering communications during the election campaign shall maintain open for public inspection during the campaign and for a period of no less than three years after the date of the applicable election, during normal business hours, documents and books of account which shall specify:

- (a) The names and addresses of persons from whom it accepted political advertising or electioneering communications;
- (b) The exact nature and extent of the ~~((advertising))~~ services rendered; and
- (c) The consideration and the manner of paying that consideration for such services.

(2) Each commercial advertiser which must comply with subsection (1) of this section shall deliver to the commission, upon its request, copies of such information as must be maintained open for public inspection pursuant to subsection (1) of this section.

Sec. 9. RCW 42.17.510 and 1995 c 397 s 19 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. ~~((The party with which a candidate~~

~~files~~) For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising ((for partisan office)).

(2) In addition to the materials required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure by a person or entity other than a party organization, and all electioneering communications, must include the following statement ((~~on~~) as part of the communication "NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate. It is paid for by (name, address, city, state)." If the advertisement undertaken as an independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement or communication.

(3) The statements and listings of contributors required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written advertisement or communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process; and

(c) Be set apart from any other printed matter(~~and~~

~~(d) Be clearly spoken on any broadcast advertisement)).~~

(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height, and have a reasonable color contrast with the background: "No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter

during the twelve-month period before the date of the advertisement. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political yard signs are exempt from the requirement of subsections (1) and (2) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsections (1) and (2) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

((5)) (7) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

Sec. 10. RCW 42.17.530 and 1999 c 304 s 2 are each amended to read as follows:

(1) It is a violation of this chapter for a person to sponsor with actual malice:

(a) Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office. However, this subsection (1)(a) does not apply to statements made by a candidate or the candidate's agent about the candidate himself or herself;

(b) Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent;

(c) Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.

(2) Any violation of this section shall be proven by clear and convincing evidence.

Sec. 11. RCW 42.17.640 and 2001 c 208 s 1 are each reenacted and amended to read as follows:

(1) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office that in the aggregate exceed ((five)) seven hundred dollars or to a candidate for a state office other than a state legislative office that in the aggregate exceed one thousand four hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of

making expenditures in support of the recall of the state official, during a recall campaign that in the aggregate exceed (~~(five)~~) seven hundred dollars if for a state legislative office or one thousand four hundred dollars if for a state office other than a state legislative office.

(3)(a) Notwithstanding subsection (1) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) (~~(fifty)~~) seventy cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) (~~(twenty-five)~~) thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed (~~(twenty-five)~~) thirty-five cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, during a recall campaign that in the aggregate exceed (i) (~~(fifty)~~) seventy cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) (~~(twenty-five)~~) thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No state official against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of a state official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed (~~(twenty-five)~~) thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(5) For purposes of determining contribution limits under subsections (3) and (4) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(6) Notwithstanding subsections (1) through (4) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed (~~(five)~~) seven hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed (~~(two)~~) three thousand five hundred dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(7) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate, or of a state official against whom recall charges have been filed, is considered to be a contribution to the candidate or state official.

(8) A contribution received within the twelve-month period after a recall election concerning a state office is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(9) The contributions allowed by subsection (2) of this section are in addition to those allowed by subsection (1) of this section, and the contributions allowed by subsection (4) of this section are in addition to those allowed by subsection (3) of this section.

(10) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in a state office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(11) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(12) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate, state official against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of a state official if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the state official.

(13) No person may accept contributions that exceed the contribution limitations provided in this section.

(14) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; or

(b) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates.

Sec. 12. RCW 42.17.660 and 1993 c 2 s 6 are each amended to read as follows:

For purposes of this chapter:

(1) A contribution by a political committee with funds that have all been contributed by one person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(2) Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch, or department of a corporation that is participating in an election campaign or making contributions, or a local unit((;)) or branch(~~(-or affiliate)~~) of a trade association, labor union, or collective bargaining association that is participating in an election campaign or making contributions. All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained, or controlled by a trade association, labor union, collective bargaining organization, or the local unit of a trade association, labor union, or collective bargaining organization are considered made by the ((~~same person or entity~~)) trade association, labor union, collective bargaining organization, or local unit of a trade association, labor union, or collective bargaining organization.

(3) The commission shall adopt rules to carry out this section and is not subject to the time restrictions of RCW 42.17.370(1).

PART IV - TECHNICAL PROVISIONS

NEW SECTION. Sec. 13. RCW 42.17.505 (Definitions) and 1988 c 199 s 1 are each repealed.

NEW SECTION. Sec. 14. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 15. (1) Sections 1 through 5 of this act are each added to chapter 42.17 RCW to be codified with the subchapter heading of "Reporting of Electioneering Communications."

(2) The code reviser must change the subchapter heading "Political Advertising" to "Political Advertising and Electioneering Communications" in chapter 42.17 RCW.

NEW SECTION. Sec. 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 17. Sections 6 and 12 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2005. The remainder of this act takes effect January 1, 2006.

Passed by the Senate April 20, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 446

[Substitute House Bill 1512]

STATE-PURCHASED HEALTH CARE—PERFORMANCE MEASURES

AN ACT Relating to incentives to improve quality of care in state purchased health care programs; amending RCW 41.05.021 and 41.05.075; and adding a new section to chapter 74.09 RCW.

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

Sec. 1. RCW 41.05.021 and 2002 c 142 s 1 are each amended to read as follows:

(1) The Washington state health care authority is created within the executive branch. The authority shall have an administrator appointed by the governor, with the consent of the senate. The administrator shall serve at the pleasure of the governor. The administrator may employ up to seven staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The administrator may delegate any power or duty vested in him or her by this chapter, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW. The primary duties of the authority shall be to: Administer state employees' insurance benefits and retired or disabled school employees' insurance benefits; administer the basic health plan pursuant to chapter 70.47 RCW; study state-purchased health care programs in order to maximize cost containment in these programs while ensuring access to quality health care; and implement state initiatives, joint purchasing strategies, and techniques for efficient administration that have potential application to all state-purchased health services. The authority's duties include, but are not limited to, the following:

(a) To administer health care benefit programs for employees and retired or disabled school employees as specifically authorized in RCW 41.05.065 and in accordance with the methods described in RCW 41.05.075, 41.05.140, and other provisions of this chapter;

(b) To analyze state-purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(i) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(ii) Utilization of provider arrangements that encourage cost containment, including but not limited to prepaid delivery systems, utilization review, and prospective payment methods, and that ensure access to quality care, including assuring reasonable access to local providers, especially for employees residing in rural areas;

(iii) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(iv) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; ~~(and)~~

(v) Development of data systems to obtain utilization data from state-purchased health care programs in order to identify cost centers, utilization

patterns, provider and hospital practice patterns, and procedure costs, utilizing the information obtained pursuant to RCW 41.05.031; and

(vi) In collaboration with other state agencies that administer state purchased health care programs, private health care purchasers, health care facilities, providers, and carriers, use evidence-based medicine principles to develop common performance measures and implement financial incentives in contracts with insuring entities, health care facilities, and providers that:

(A) Reward improvements in health outcomes for individuals with chronic diseases, increased utilization of appropriate preventive health services, and reductions in medical errors; and

(B) Increase, through appropriate incentives to insuring entities, health care facilities, and providers, the adoption and use of information technology that contributes to improved health outcomes, better coordination of care, and decreased medical errors;

(c) To analyze areas of public and private health care interaction;

(d) To provide information and technical and administrative assistance to the board;

(e) To review and approve or deny applications from counties, municipalities, and other political subdivisions of the state to provide state-sponsored insurance or self-insurance programs to their employees in accordance with the provisions of RCW 41.04.205, setting the premium contribution for approved groups as outlined in RCW 41.05.050;

~~(f) ((To appoint a health care policy technical advisory committee as required by RCW 41.05.150;~~

~~(g))~~ To establish billing procedures and collect funds from school districts and educational service districts under RCW 28A.400.400 in a way that minimizes the administrative burden on districts;

~~((h))~~ (g) To publish and distribute to nonparticipating school districts and educational service districts by October 1st of each year a description of health care benefit plans available through the authority and the estimated cost if school districts and educational service district employees were enrolled; and

~~((i))~~ (h) To promulgate and adopt rules consistent with this chapter as described in RCW 41.05.160.

(2) On and after January 1, 1996, the public employees' benefits board may implement strategies to promote managed competition among employee health benefit plans. Strategies may include but are not limited to:

(a) Standardizing the benefit package;

(b) Soliciting competitive bids for the benefit package;

(c) Limiting the state's contribution to a percent of the lowest priced qualified plan within a geographical area;

(d) Monitoring the impact of the approach under this subsection with regards to: Efficiencies in health service delivery, cost shifts to subscribers, access to and choice of managed care plans statewide, and quality of health services. The health care authority shall also advise on the value of administering a benchmark employer-managed plan to promote competition among managed care plans.

Sec. 2. RCW 41.05.075 and 2002 c 142 s 4 are each amended to read as follows:

(1) The administrator shall provide benefit plans designed by the board through a contract or contracts with insuring entities, through self-funding, self-insurance, or other methods of providing insurance coverage authorized by RCW 41.05.140.

(2) The administrator shall establish a contract bidding process that:

(a) Encourages competition among insuring entities;

(b) Maintains an equitable relationship between premiums charged for similar benefits and between risk pools including premiums charged for retired state and school district employees under the separate risk pools established by RCW 41.05.022 and 41.05.080 such that insuring entities may not avoid risk when establishing the premium rates for retirees eligible for medicare;

(c) Is timely to the state budgetary process; and

(d) Sets conditions for awarding contracts to any insuring entity.

(3) The administrator shall establish a requirement for review of utilization and financial data from participating insuring entities on a quarterly basis.

(4) The administrator shall centralize the enrollment files for all employee and retired or disabled school employee health plans offered under chapter 41.05 RCW and develop enrollment demographics on a plan-specific basis.

(5) All claims data shall be the property of the state. The administrator may require of any insuring entity that submits a bid to contract for coverage all information deemed necessary including:

(a) Subscriber or member demographic and claims data necessary for risk assessment and adjustment calculations in order to fulfill the administrator's duties as set forth in this chapter; and

(b) Subscriber or member demographic and claims data necessary to implement performance measures or financial incentives related to performance under subsection (7) of this section.

(6) All contracts with insuring entities for the provision of health care benefits shall provide that the beneficiaries of such benefit plans may use on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners. However, nothing in this subsection may preclude the administrator from establishing appropriate utilization controls approved pursuant to RCW 41.05.065(2) (a), (b), and (d).

(7) The administrator shall, in collaboration with other state agencies that administer state purchased health care programs, private health care purchasers, health care facilities, providers, and carriers, use evidence-based medicine principles to develop common performance measures and implement financial incentives in contracts with insuring entities, health care facilities, and providers that:

(a) Reward improvements in health outcomes for individuals with chronic diseases, increased utilization of appropriate preventive health services, and reductions in medical errors; and

(b) Increase, through appropriate incentives to insuring entities, health care facilities, and providers, the adoption and use of information technology that contributes to improved health outcomes, better coordination of care, and decreased medical errors.

NEW SECTION. Sec. 3. A new section is added to chapter 74.09 RCW to read as follows:

The secretary shall, in collaboration with other state agencies that administer state purchased health care programs, private health care purchasers, health care facilities, providers, and carriers, use evidence-based medicine principles to develop common performance measures and implement financial incentives in contracts with insuring entities, health care facilities, and providers that:

(1) Reward improvements in health outcomes for individuals with chronic diseases, increased utilization of appropriate preventive health services, and reductions in medical errors; and

(2) Increase, through appropriate incentives to insuring entities, health care facilities, and providers, the adoption and use of information technology that contributes to improved health outcomes, better coordination of care, and decreased medical errors.

Passed by the House April 18, 2005.

Passed by the Senate April 6, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 447

[House Bill 1533]

HOSPITALS—INSPECTIONS, SURVEYS

AN ACT Relating to inspection of hospitals; and amending RCW 70.41.120 and 70.41.122.

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

Sec. 1. RCW 70.41.120 and 2004 c 261 s 4 are each amended to read as follows:

The department shall make or cause to be made (~~at least yearly~~) an inspection of all hospitals on average at least every eighteen months. Every inspection of a hospital may include an inspection of every part of the premises. The department may make an examination of all phases of the hospital operation necessary to determine compliance with the law and the standards, rules and regulations adopted thereunder. Any licensee or applicant desiring to make alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, comply with the regulations prescribed by the department.

No hospital licensed pursuant to the provisions of this chapter shall be required to be inspected or licensed under other state laws or rules and regulations promulgated thereunder, or local ordinances, relative to hotels, restaurants, lodging houses, boarding houses, places of refreshment, nursing homes, maternity homes, or psychiatric hospitals.

To avoid unnecessary duplication in inspections, the department shall coordinate with the department of social and health services, the office of the state fire marshal, and local agencies when inspecting facilities over which each agency has jurisdiction, the facilities including but not necessarily being limited to hospitals with both acute care and skilled nursing or psychiatric nursing functions. The department shall notify the office of the state fire marshal and the

relevant local agency at least four weeks prior to any inspection conducted under this section and invite their attendance at the inspection, and shall provide a copy of its inspection report to each agency upon completion.

Sec. 2. RCW 70.41.122 and 1999 c 41 s 1 are each amended to read as follows:

~~(Notwithstanding RCW 70.41.120, a hospital accredited)~~ Surveys conducted by the joint commission on the accreditation of health care organizations or the American osteopathic association ~~((is not subject to the annual inspection provided for))~~ on hospitals accredited by those bodies shall be deemed equivalent to a department survey for purposes of meeting the requirements for the survey specified in RCW 70.41.120 if(:

(4)) the department determines that the applicable survey standards of the joint commission on the accreditation of health care organizations or the American osteopathic association are substantially equivalent to its own(;

~~(2) It has been inspected by the joint commission on the accreditation of health care organizations or the American osteopathic association within the previous twelve months; and~~

~~(3) The department receives directly from the joint commission on the accreditation of health care organizations, the American osteopathic association, or the hospital itself copies of the survey reports prepared by the joint commission on the accreditation of health care organizations or the American osteopathic association demonstrating that the hospital meets applicable standards).~~

(1) Hospitals so surveyed shall provide to the department within thirty days of learning the result of a survey documentary evidence that the hospital has been certified as a result of a survey and the date of the survey.

(2) Hospitals shall make available to department surveyors the written reports of such surveys during department surveys, upon request.

Passed by the House April 18, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 448

[Engrossed Substitute House Bill 1539]

TRANSMISSION PIPELINES—EXCAVATOR NOTICE REQUIREMENTS

AN ACT Relating to failure to notify the one-number locator service when excavating near a transmission pipeline; amending RCW 19.122.020, 19.122.027, 19.122.055, and 19.122.070; adding new sections to chapter 19.122 RCW; and prescribing penalties.

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

Sec. 1. RCW 19.122.020 and 2000 c 191 s 15 are each amended to read as follows:

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

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Damage" includes the substantial weakening of structural or lateral support of an underground facility, penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected utility owner determines that repairs are required.

(3) "Emergency" means any condition constituting a clear and present danger to life or property, or a customer service outage.

(4) "Excavation" means any operation in which earth, rock, or other material on or below the ground is moved or otherwise displaced by any means, except the tilling of soil less than twelve inches in depth for agricultural purposes, or road and ditch maintenance that does not change the original road grade or ditch flowline.

(5) "Excavation confirmation code" means a code or ticket issued by the one-number locator service for the site where an excavation is planned. The code must be accompanied by the date and time it was issued.

(6) "Excavator" means any person who engages directly in excavation.

~~((6))~~ (7) "Gas" means natural gas, flammable gas, or toxic or corrosive gas.

~~((7))~~ (8) "Hazardous liquid" means: (a) Petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 as in effect on March 1, 1998; and (b) carbon dioxide. The utilities and transportation commission may by rule incorporate by reference other substances designated as hazardous by the secretary of transportation.

~~((8))~~ (9) "Identified facility" means any underground facility which is indicated in the project plans as being located within the area of proposed excavation.

~~((9))~~ (10) "Identified but unlocatable underground facility" means an underground facility which has been identified but cannot be located with reasonable accuracy.

~~((10))~~ (11) "Locatable underground facility" means an underground facility which can be field-marked with reasonable accuracy.

~~((11))~~ (12) "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American public works association. Markings shall include identification letters indicating the specific type of the underground facility.

~~((12))~~ (13) "Notice" or "notify" means contact in person or by telephone or other electronic methods that results in the receipt of a valid excavation confirmation code.

(14) "One-number locator service" means a service through which a person can notify utilities and request field-marking of underground facilities.

(15) "Operator" means the individual conducting the excavation.

(16) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of a state, and its employees, agents, or legal representatives.

~~((13))~~ (17) "Pipeline" or "pipeline system" means all or parts of a pipeline facility through which hazardous liquid or gas moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with

pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. "Pipeline" or "pipeline system" does not include process or transfer pipelines as defined in RCW 81.88.010.

~~((14))~~ (18) "Pipeline company" means a person or entity constructing, owning, or operating a pipeline for transporting hazardous liquid or gas. A pipeline company does not include: (a) Distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail; or (b) excavation contractors or other contractors that contract with a pipeline company.

~~((15))~~ (19) "Reasonable accuracy" means location within twenty-four inches of the outside dimensions of both sides of an underground facility.

~~((16))~~ (20) "Transmission pipeline" means a pipeline that transports hazardous liquid or gas within a storage field, or transports hazardous liquid or gas from an interstate pipeline or storage facility to a distribution main or a large volume hazardous liquid or gas user, or operates at a hoop stress of twenty percent or more of the specified minimum yield strength.

(21) "Underground facility" means any item buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including but not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors below ground. This definition does not include pipelines as defined in subsection ~~((13))~~ (17) of this section, but does include distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail.

~~((17) "One number locator service" means a service through which a person can notify utilities and request field marking of underground facilities.))~~

Sec. 2. RCW 19.122.027 and 2000 c 191 s 16 are each amended to read as follows:

(1) ~~((By December 31, 2000,))~~ The utilities and transportation commission shall cause to be established a single statewide toll-free telephone number to be used for referring excavators to the appropriate one-number locator service.

(2) The utilities and transportation commission, in consultation with the Washington utilities coordinating council, shall establish minimum standards and best management practices for one-number locator services ~~((consistent with the recommendations of the governor's fuel accident prevention and response team issued in December 1999. By December 31, 2000, the commission shall provide its recommendations to the appropriate standing committees of the house of representatives and the senate)).~~

(3) One-number locator services shall be operated by nongovernmental agencies.

Sec. 3. RCW 19.122.055 and 2001 c 238 s 5 are each amended to read as follows:

(1)(a) Any ~~((person))~~ excavator who fails to notify the one-number locator service and causes damage to a hazardous liquid or gas pipeline is subject to a civil penalty of not more than ten thousand dollars for each violation.

(b) The civil penalty in this subsection may also be imposed on any excavator who violates section 5 of this act.

(2) All civil penalties recovered under this section shall be deposited into the pipeline safety account created in RCW 81.88.050.

Sec. 4. RCW 19.122.070 and 1984 c 144 s 7 are each amended to read as follows:

(1) Any person who violates any provision of this chapter not amounting to a violation of RCW 19.122.055, and which violation results in damage to underground facilities, is subject to a civil penalty of not more than one thousand dollars for each violation. All penalties recovered in such actions shall be deposited in the general fund.

(2) Any excavator who willfully or maliciously damages a field-marked underground facility shall be liable for treble the costs incurred in repairing or relocating the facility. In those cases in which an excavator fails to notify known underground facility owners or the one-number locator service, any damage to the underground facility shall be deemed willful and malicious and shall be subject to treble damages for costs incurred in repairing or relocating the facility.

(3) This chapter does not affect any civil remedies for personal injury or for property damage, including that to underground facilities, nor does this chapter create any new civil remedies for such damage.

NEW SECTION. Sec. 5. A new section is added to chapter 19.122 RCW to read as follows:

Any excavator who excavates, without a valid excavation confirmation code when required under this chapter, within thirty-five feet of a transmission pipeline is guilty of a misdemeanor.

NEW SECTION. Sec. 6. A new section is added to chapter 19.122 RCW to read as follows:

If charged with a violation of section 5 of this act, an operator will be deemed to have established an affirmative defense to such charges if:

- (1) The operator was provided a valid excavation confirmation code;
- (2) The excavation was performed in an emergency situation;
- (3) The operator was provided a false confirmation code by an identifiable third party; or
- (4) Notice of the excavation was not required under this chapter.

NEW SECTION. Sec. 7. A new section is added to chapter 19.122 RCW to read as follows:

Any person who intentionally provides an operator with a false excavation confirmation code is guilty of a misdemeanor.

NEW SECTION. Sec. 8. A new section is added to chapter 19.122 RCW to read as follows:

Upon receipt, during normal business hours, of notice of an intended excavation, the one-number locator service shall provide an excavation confirmation code.

Passed by the House April 21, 2005.

Passed by the Senate April 19, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 449

[Engrossed Substitute House Bill 1631]

CONSERVATION FUTURES

AN ACT Relating to using revenues under the county conservation futures levy; and amending RCW 84.34.230 and 84.34.240.

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

Sec. 1. RCW 84.34.230 and 1995 c 318 s 8 are each amended to read as follows:

Conservation futures are a useful tool for counties to preserve lands of public interest for future generations. Counties are encouraged to use some conservation futures as one tool for salmon preservation purposes.

For the purpose of acquiring conservation futures (~~(as well as)~~) and other rights and interests in real property pursuant to RCW 84.34.210 and 84.34.220, and for maintaining and operating any property acquired with these funds, a county may levy an amount not to exceed six and one-quarter cents per thousand dollars of assessed valuation against the assessed valuation of all taxable property within the county. The limitations in RCW 84.52.043 shall not apply to the tax levy authorized in this section. Any rights or interests in real property acquired under this section after the effective date of this section must be located within the assessing county. Further, the county must determine if the rights or interests in real property acquired with these funds would reduce the capacity of land suitable for development necessary to accommodate the allocated housing and employment growth, as adopted in the countywide planning policies. When actions are taken that reduce capacity to accommodate planned growth, the jurisdiction shall adopt reasonable measures to increase the capacity lost by such actions.

Sec. 2. RCW 84.34.240 and 1971 ex.s. c 243 s 5 are each amended to read as follows:

Conservation futures are a useful tool for counties to preserve lands of public interest for future generations. Counties are encouraged to use some conservation futures as one tool for salmon preservation purposes.

(1) Any board of county commissioners may establish by resolution a special fund which may be termed a conservation futures fund to which it may credit all taxes levied pursuant to RCW 84.34.230. Amounts placed in this fund may be used (~~(solely)~~) for the purpose of acquiring rights and interests in real property pursuant to the terms of RCW 84.34.210 and 84.34.220, and for the maintenance and operation of any property acquired with these funds. The amount of revenue used for maintenance and operations of parks and recreational land may not exceed fifteen percent of the total amount collected from the tax levied under RCW 84.34.230 in the preceding calendar year. Revenues from this tax may not be used to supplant existing maintenance and operation funding. Any rights or interests in real property acquired under this section must be located within the assessing county. Further, the county must determine if the rights or interests in real property acquired with these funds would reduce the capacity of land suitable for development necessary to accommodate the allocated housing and employment growth, as adopted in the countywide planning policies. When actions are taken that reduce capacity to

accommodate planned growth, the jurisdiction shall adopt reasonable measures to increase the capacity lost by such actions.

(2) In counties greater than one hundred thousand in population, the board of county commissioners or county legislative authority shall develop a process to help ensure distribution of the tax levied under RCW 84.34.230, over time, throughout the county.

(3)(a) Between the effective date of this section and July 1, 2008, the county legislative authority of a county with a population density of fewer than four persons per square mile may enact an ordinance offering a ballot proposal to the people of the county to determine whether or not the county legislative authority may make a one-time emergency reallocation of unspent conservation futures funds to pay for other county government purposes, where such conservation futures funds were originally levied under RCW 84.34.230 but never spent to acquire rights and interests in real property.

(b) Upon adoption by the county legislative authority of a ballot proposal ordinance under (a) of this subsection the county auditor shall: (i) Confer with the county legislative authority and review any proposal to the people as to form and style; (ii) give the ballot proposal a number, which thereafter shall be the identifying number for the proposal; (iii) transmit a copy of the proposal to the prosecuting attorney; and (iv) submit the proposal to the people at the next general or special election that is not less than ninety days after the adoption of the ordinance by the county legislative authority.

(c) The county prosecuting attorney shall within fifteen working days of receipt of the proposal compose a concise statement, posed as a positive question, not to exceed twenty-five words, which shall express and give a true and impartial statement of the proposal. Such concise statement shall be the ballot title.

(d) If the measure is affirmed by a majority voting on the issue it shall become effective ten days after the results of the election are certified.

(4) Nothing in this section shall be construed as limiting in any manner methods and funds otherwise available to a county for financing the acquisition of such rights and interests in real property.

Passed by the House April 18, 2005.

Passed by the Senate April 7, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 450

[Engrossed Substitute Senate Bill 6050]

CITY-COUNTY ASSISTANCE ACCOUNT

AN ACT Relating to providing financial assistance to cities, towns, and counties; amending RCW 82.45.060; adding a new section to chapter 43.08 RCW; adding a new section to chapter 44.28 RCW; and providing an effective date.

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

Sec. 1. RCW 82.45.060 and 2000 c 103 s 15 are each amended to read as follows:

There is imposed an excise tax upon each sale of real property at the rate of one and twenty-eight one-hundredths percent of the selling price. An amount

equal to (~~seven and seven-tenths~~) six and one-tenth percent of the proceeds of this tax to the state treasurer shall be deposited in the public works assistance account created in RCW 43.155.050. An amount equal to one and six-tenths percent of the proceeds of this tax to the state treasurer shall be deposited in the city-county assistance account created in section 2 of this act.

NEW SECTION. Sec. 2. A new section is added to chapter 43.08 RCW to read as follows:

(1) The city-county assistance account is created in the state treasury. All receipts from real estate excise tax disbursements provided under RCW 82.45.060 shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes provided in this section.

(2) Funds deposited in the city-county assistance account shall be distributed equally to the cities and counties.

(3)(a) Funds distributed to counties shall, to the extent possible, increase the revenues received under RCW 82.14.030(1) by each county to the greater of two hundred fifty thousand dollars or:

(i) For a county with an unincorporated population of one hundred thousand or less, seventy percent of the statewide weighted average per capita level of sales and use tax revenues collected under RCW 82.14.030(1) for the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year; and

(ii) For a county with an unincorporated population of more than one hundred thousand, sixty-five percent of the statewide weighted average per capita level of sales and use tax revenues collected under RCW 82.14.030(1) for the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year.

(b) For each county with an unincorporated population of fifteen thousand or less, the county shall receive the greater of the amount in (a) of this subsection or the amount received in local government assistance provided by section 716, chapter 276, Laws of 2004.

(c) For each county with an unincorporated population of more than fifteen thousand and less than twenty-two thousand, the county shall receive in calendar year 2006 and 2007 the greater of the amount provided in (a) of this subsection or the amount received in local government assistance provided by section 716, chapter 276, Laws of 2004.

(d) To the extent that revenues are insufficient to fund the distributions under this subsection, the distributions of all counties as otherwise determined under this subsection shall be ratably reduced.

(e) To the extent that revenues exceed the amounts needed to fund the distributions under this subsection, the excess funds shall be divided ratably based upon unincorporated population among those counties receiving funds under this subsection and imposing the tax collected under RCW 82.14.030(2) at the maximum rate.

(4)(a) For each city with a population of five thousand or less with a per capita assessed property value less than twice the statewide average per capita assessed property value for all cities for the calendar year previous to the certification under subsection (6) of this section, the city shall receive the greater of the following three amounts:

(i) An amount necessary to increase the revenues collected under RCW 82.14.030(1) up to fifty-five percent of the statewide weighted average per capita level of sales and use tax revenues collected under RCW 82.14.030(1) for all cities imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year.

(ii) The amount received in local government assistance provided for fiscal year 2005 by section 721, chapter 25, Laws of 2003 1st sp. sess.

(iii) For a city with a per capita assessed property value less than fifty-five percent of the statewide average per capita assessed property value for all cities, an amount determined by subtracting the city's per capita assessed property value from fifty-five percent of the statewide average per capita assessed property value, dividing that amount by one thousand, and multiplying the result by the city's population.

(b) For each city with a population of more than five thousand with a per capita assessed property value less than the statewide average per capita assessed property value for all cities for the calendar year previous to the certification under subsection (6) of this section, the city shall receive the greater of the following three amounts:

(i) An amount necessary to increase the revenues collected under RCW 82.14.030(1) up to fifty percent of the statewide weighted average per capita level of sales and use tax revenues collected under RCW 82.14.030(1) for all cities imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year.

(ii) For calendar year 2006 and 2007, the amount received in local government assistance provided for fiscal year 2005 by section 721, chapter 25, Laws of 2003 1st sp. sess.

(iii) For a city with a per capita assessed property value less than fifty-five percent of the statewide average per capita assessed property value for all cities, an amount determined by subtracting the city's per capita assessed property value from fifty-five percent of the statewide average per capita assessed property value, dividing that amount by one thousand, and multiplying the result by the city's population.

(c) No city may receive an amount greater than one hundred thousand dollars a year under (a) or (b) of this subsection.

(d) To the extent that revenues are insufficient to fund the distributions under this subsection, the distributions of all cities as otherwise determined under this subsection shall be ratably reduced.

(e) To the extent that revenues exceed the amounts needed to fund the distributions under this subsection, the excess funds shall be divided ratably based upon population among those cities receiving funds under this subsection and imposing the tax collected under RCW 82.14.030(2) at the maximum rate.

(f) This subsection only applies to cities incorporated prior to the effective date of this section.

(5) The two hundred fifty thousand dollar amount in subsection (3) of this section and the one hundred thousand dollar amount in subsection (4) of this section shall be increased each year beginning in calendar year 2006 by inflation as defined in RCW 84.55.005, as determined by the department of revenue.

(6) Distributions under subsections (3) and (4) of this section shall be made quarterly beginning on October 1, 2005, based on population as last determined

by the office of financial management. The department of revenue shall certify the amounts to be distributed under this section to the state treasurer. The certification shall be made by October 1, 2005, for the October 1, 2005, distribution and the January 1, 2006, distribution, based on calendar year 2004 collections. The certification shall be made by March 1, 2006, for distributions beginning April 1, 2006, and by March 1st of every year thereafter. The March 1st certification shall be used for distributions occurring on April 1st, July 1st, and October 1st of the year of certification and on January 1st of the year following certification.

(7) All distributions to local governments from the city-county assistance account constitute increases in state distributions of revenue to political subdivisions for purposes of state reimbursement for the costs of new programs and increases in service levels under RCW 43.135.060, including any claims or litigation pending against the state on or after January 1, 2005.

NEW SECTION. Sec. 3. A new section is added to chapter 44.28 RCW to read as follows:

During calendar year 2008, the joint legislative audit and review committee shall review the distributions to cities and counties under section 2 of this act to determine the extent to which the distributions target the needs of cities and counties for which the repeal of the motor vehicle excise tax had the greatest fiscal impact. In conducting the study, the committee shall solicit input from the cities and counties. The department of revenue and the state treasurer shall provide the committee with any data within their purview that the committee considers necessary to conduct the review. The committee shall report to the legislature the results of its findings, and any recommendations for changes to the distribution formulas under section 2 of this act, by December 31, 2008.

NEW SECTION. Sec. 4. This act takes effect August 1, 2005.

Passed by the Senate March 16, 2005.

Passed by the House April 20, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 451

[Substitute Senate Bill 5615]

LEOFF RETIREMENT—DISABILITY ALLOWANCE

AN ACT Relating to receiving a disability allowance under the law enforcement officers' and fire fighters' retirement system, plan 2; amending RCW 41.26.470; and declaring an emergency.

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

Sec. 1. RCW 41.26.470 and 2004 c 4 s 1 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, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse, 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 reenrance 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(~~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~~)).

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 13, 2005.

Passed by the House April 22, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 452

[Substitute House Bill 1681]

CRIMINAL BACKGROUND CHECK PROCESSES—TASK FORCE

AN ACT Relating to the joint task force on criminal background check processes; reenacting and amending 2004 c 41 s 2 (uncodified); providing an expiration date; and declaring an emergency.

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

Sec. 1. 2004 c 41 s 2 (uncodified) is reenacted and amended to read as follows:

(1) A joint task force on criminal background check processes is established. The joint task force shall consist of the following members:

(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 of the house of representatives, appointed by the speaker of the house of representatives;

(c) The chief of the Washington state patrol, or the chief's designee;

(d) The secretary of the department of social and health services, or the secretary's designee;

(e) The state superintendent of public instruction, or the superintendent's designee;

(f) An elected sheriff or police chief, selected by the Washington association of sheriffs and police chiefs; and

(g) The following (~~seven~~) eleven members, jointly appointed by the speaker of the house of representatives and the president of the senate:

(i) A representative from a nonprofit service organization that serves primarily children under sixteen years of age;

(ii) A health care provider as defined in RCW 7.70.020;

(iii) A representative from a business or organization that primarily serves persons with a developmental disability (~~or vulnerable adults~~);

(iv) A representative from a local youth athletic association;

(v) A representative from the insurance industry; (~~and~~)

(vi) Two representatives from a local parks and recreation program; one member shall be selected by the association of Washington cities and one member shall be selected by the Washington association of counties;

(vii) A representative from a for-profit entity that primarily serves children;

(viii) A representative from a business or organization that primarily serves vulnerable adults;

(ix) A representative selected by the state's long-term care ombudsman; and

(x) As a nonvoting ex officio member, a representative of an organization that serves as a clearinghouse for other nonprofit organizations in the state and that recruits volunteers and trains nonprofit boards of directors.

(2) The task force shall choose two cochairs from among its membership.

(3) The task force shall review and make recommendations to the legislature and the governor regarding criminal background check policy in Washington state. In preparing the recommendations, the committee shall, at a minimum, review the following issues:

(a) What state and federal statutes require regarding criminal background checks, and determine whether any changes should be made;

(b) What criminal offenses are currently reportable through the criminal background check program, and determine whether any changes should be made;

(c) What information is available through the Washington state patrol and the federal bureau of investigation criminal background check systems, and determine whether any changes should be made;

(d) What are the best practices among organizations for obtaining criminal background checks on their employees and volunteers;

(e) What is the feasibility and costs for businesses and organizations to do periodic background checks;

(f) What is the feasibility of requiring all businesses and organizations, including nonprofit entities, to conduct criminal background checks for all employees, contractors, agents, and volunteers who have regularly scheduled supervised or unsupervised access to children, persons with a developmental disability, or vulnerable adults; (~~and~~)

(g) What is the feasibility of establishing a state registration program for private youth sports coaches under which some or all of such persons are

required to obtain and disclose to prospective clients and employers a copy of the results of their fingerprint-based criminal background checks:

(h) A review of the practices of the department of social and health services with respect to checking the backgrounds of its employees, applicants for employment, and candidates for promotion; and

(i) A review of the benefits and obstacles of implementing a criminal history record information background check program created by the national child protection act of 1993. The national child protection act of 1993 increases the availability of criminal history record information background checks for employers who have employees or volunteers who work with children, elderly persons, or persons with disabilities.

(4) The task force, where feasible, may consult with individuals from the public and private sector.

(5) The task force shall use legislative facilities and staff from senate committee services and the house office of program research.

(6) The task force shall report its findings and recommendations to the legislature by December 31, ~~((2004))~~ 2005.

NEW SECTION. Sec. 2. This act expires January 31, 2006.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 18, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 453

[Substitute House Bill 1687]

FIREARMS—LIMITS ON POSSESSION RIGHTS

AN ACT Relating to firearms; amending RCW 9.41.040, 9.41.047, 9.41.060, 9.41.075, and 71.34.200; and reenacting and amending RCW 71.05.390.

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

Sec. 1. RCW 9.41.040 and 2003 c 53 s 26 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) After having previously been involuntarily committed for mental health treatment under RCW 71.05.320, 71.34.090, 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;

(iii) If the person is under eighteen years of age, except as provided in RCW 9.41.042; and/or

(iv) 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-factfinding 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) 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:

(a) Under RCW 9.41.047; and/or

(b)(i) 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

(ii) 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.

(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.

(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.

Sec. 2. RCW 9.41.047 and 1996 c 295 s 3 are each amended to read as follows:

(1) 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 71.05.320, 71.34.090, 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.

The convicting or committing court also shall forward a copy of the person's driver's license or identicard, or comparable information, to the department of licensing, along with the date of conviction or commitment.

(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 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction may, upon discharge, petition a court of record to have his or her right to possess a firearm restored. At the time of commitment, the court shall specifically state to the person that he or she is barred from possession of firearms.

(b) The secretary of social and health services shall develop appropriate rules to create an approval process under this subsection. The rules must provide for the restoration of the right to possess a firearm upon a showing in a court of competent jurisdiction that the person is no longer required to participate in an inpatient or outpatient treatment program, is no longer required to take medication to treat any condition related to the commitment, and does not present a substantial danger to himself or herself, others, or the public. Unlawful possession of a firearm under this subsection shall be punished as a class C felony under chapter 9A.20 RCW.

(c) A person petitioning the court under this subsection (3) shall bear the burden of proving by a preponderance of the evidence that the circumstances resulting in the commitment no longer exist and are not reasonably likely to recur. 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.

(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. 3. RCW 9.41.060 and 1998 c 253 s 2 are each amended to read as follows:

The provisions of RCW 9.41.050 shall not apply to:

(1) Marshals, sheriffs, prison or jail wardens or their deputies, or other law enforcement officers of this state or another state;

(2) Members of the armed forces of the United States or of the national guard or organized reserves, when on duty;

(3) Officers or employees of the United States duly authorized to carry a concealed pistol;

(4) Any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of the person, if possessing, using, or carrying a pistol in the usual or ordinary course of the business;

(5) Regularly enrolled members of any organization duly authorized to purchase or receive pistols from the United States or from this state;

(6) Regularly enrolled members of clubs organized for the purpose of target shooting, when those members are at or are going to or from their places of target practice;

(7) Regularly enrolled members of clubs organized for the purpose of modern and antique firearm collecting, when those members are at or are going to or from their collector's gun shows and exhibits;

(8) Any person engaging in a lawful outdoor recreational activity such as hunting, fishing, camping, hiking, or horseback riding, only if, considering all of the attendant circumstances, including but not limited to whether the person has a valid hunting or fishing license, it is reasonable to conclude that the person is participating in lawful outdoor activities or is traveling to or from a legitimate outdoor recreation area;

(9) Any person while carrying a pistol unloaded and in a closed opaque case or secure wrapper; or

(10) Law enforcement officers retired for service or physical disabilities, except for those law enforcement officers retired because of mental or stress-related disabilities. This subsection applies only to a retired officer who has: (a) Obtained documentation from a law enforcement agency within Washington state from which he or she retired that is signed by the agency's chief law enforcement officer and that states that the retired officer was retired for service or physical disability; and (b) not been convicted or found not guilty by reason of insanity of a crime making him or her ineligible for a concealed pistol license.

Sec. 4. RCW 9.41.075 and 1994 sp.s. c 7 s 408 are each amended to read as follows:

(1) The license shall be revoked by the license-issuing authority immediately upon:

(a) Discovery by the issuing authority that the person was ineligible under RCW 9.41.070 for a concealed pistol license when applying for the license or license renewal;

(b) Conviction of the licensee, or the licensee being found not guilty by reason of insanity, of an offense, or commitment of the licensee for mental health treatment, that makes a person ineligible under RCW 9.41.040 to possess a firearm;

(c) Conviction of the licensee for a third violation of this chapter within five calendar years; or

(d) An order that the licensee forfeit a firearm under RCW 9.41.098(1)(d).

(2)(a) Unless the person may lawfully possess a pistol without a concealed pistol license, an ineligible person to whom a concealed pistol license was issued shall, within fourteen days of license revocation, lawfully transfer ownership of any pistol acquired while the person was in possession of the license.

(b) Upon discovering a person issued a concealed pistol license was ineligible for the license, the issuing authority shall contact the department of licensing to determine whether the person purchased a pistol while in possession of the license. If the person did purchase a pistol while in possession of the concealed pistol license, if the person may not lawfully possess a pistol without a concealed pistol license, the issuing authority shall require the person to present satisfactory evidence of having lawfully transferred ownership of the pistol. The issuing authority shall require the person to produce the evidence within fifteen days of the revocation of the license.

(3) When a licensee is ordered to forfeit a firearm under RCW 9.41.098(1)(d), the issuing authority shall:

- (a) On the first forfeiture, revoke the license for one year;
- (b) On the second forfeiture, revoke the license for two years; or
- (c) On the third or subsequent forfeiture, revoke the license for five years.

Any person whose license is revoked as a result of a forfeiture of a firearm under RCW 9.41.098(1)(d) may not reapply for a new license until the end of the revocation period.

(4) The issuing authority shall notify, in writing, the department of licensing of the revocation of a license. The department of licensing shall record the revocation.

Sec. 5. RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and 2004 c 33 s 2 are each reenacted and amended to read as follows:

Except as provided in this section, the fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the patient, or his or her guardian, shall be obtained before information or records may be disclosed by a professional person employed by a facility unless provided to a professional person:

- (a) Employed by the facility;
- (b) Who has medical responsibility for the patient's care;
- (c) Who is a county designated mental health professional;
- (d) Who is providing services under chapter 71.24 RCW;
- (e) Who is employed by a state or local correctional facility where the person is confined or supervised; or
- (f) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing outpatient services to the operator of a care facility in which the patient resides.

(3) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such designation.

(4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(5) For either program evaluation or research, or both: PROVIDED, That the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/"

(6)(a) To the courts as necessary to the administration of this chapter or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under this chapter.

(b) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(c) Disclosure under this subsection is mandatory for the purpose of the health insurance portability and accountability act.

(7) To law enforcement officers, public health officers, or personnel of the department of corrections or the indeterminate sentence review board for persons who are the subject of the records and who are committed to the custody or supervision of the department of corrections or indeterminate sentence review board which information or records are necessary to carry out the responsibilities of their office. Except for dissemination of information released pursuant to RCW 71.05.425 and 4.24.550, regarding persons committed under this chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, the extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, the fact and date of discharge or release, and the last known address shall be disclosed upon request;

(b) The law enforcement and public health officers or personnel of the department of corrections or indeterminate sentence review board shall be obligated to keep such information confidential in accordance with this chapter;

(c) Additional information shall be disclosed only after giving notice to said person and his or her counsel and upon a showing of clear, cogent, and convincing evidence that such information is necessary and that appropriate safeguards for strict confidentiality are and will be maintained. However, in the event the said person has escaped from custody, said notice prior to disclosure is not necessary and that the facility from which the person escaped shall include an evaluation as to whether the person is of danger to persons or property and has a propensity toward violence;

(d) Information and records shall be disclosed to the department of corrections pursuant to and in compliance with the provisions of RCW 71.05.445 for the purposes of completing presentence investigations or risk assessment reports, supervision of an incarcerated offender or offender under

supervision in the community, planning for and provision of supervision of an offender, or assessment of an offender's risk to the community; and

(e) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(8) To the attorney of the detained person.

(9) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2) and 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information shall be disclosed only after giving notice to the committed person and the person's counsel.

(10) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.

(11) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence.

(12) To the persons designated in RCW 71.05.425 for the purposes described in that section.

(13) Civil liability and immunity for the release of information about a particular person who is committed to the department under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(14) To a patient's next of kin, guardian, or conservator, if any, in the event of death, as provided in RCW 71.05.400.

(15) To the department of health for the purposes of determining compliance with state or federal licensure, certification, or registration rules or laws. However, the information and records obtained under this subsection are exempt from public inspection and copying pursuant to chapter 42.17 RCW.

(16) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient.

(17) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), shall be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(ii);

(c) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding except in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial or in a civil commitment proceeding pursuant to chapter 71.09 RCW. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

Sec. 6. RCW 71.34.200 and 2000 c 75 s 7 are each amended to read as follows:

The fact of admission and all information obtained through treatment under this chapter is confidential. Confidential information may be disclosed only:

(1) In communications between mental health professionals to meet the requirements of this chapter, in the provision of services to the minor, or in making appropriate referrals;

(2) In the course of guardianship or dependency proceedings;

(3) To persons with medical responsibility for the minor's care;

(4) To the minor, the minor's parent, and the minor's attorney, subject to RCW 13.50.100;

(5) When the minor or the minor's parent designates in writing the persons to whom information or records may be released;

(6) To the extent necessary to make a claim for financial aid, insurance, or medical assistance to which the minor may be entitled or for the collection of fees or costs due to providers for services rendered under this chapter;

(7) To the courts as necessary to the administration of this chapter;

(8) To law enforcement officers or public health officers as necessary to carry out the responsibilities of their office. However, only the fact and date of admission, and the date of discharge, the name and address of the treatment provider, if any, and the last known address shall be disclosed upon request;

(9) To law enforcement officers, public health officers, relatives, and other governmental law enforcement agencies, if a minor has escaped from custody, disappeared from an evaluation and treatment facility, violated conditions of a less restrictive treatment order, or failed to return from an authorized leave, and

then only such information as may be necessary to provide for public safety or to assist in the apprehension of the minor. The officers are obligated to keep the information confidential in accordance with this chapter;

(10) To the secretary for assistance in data collection and program evaluation or research, provided that the secretary adopts rules for the conduct of such evaluation and research. The rules shall include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding minors who have received services in a manner such that the minor is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law.

/s/"

(11) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence;

(12) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence;

(13) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

(14) Upon the death of a minor, to the minor's next of kin;

(15) To a facility in which the minor resides or will reside;

(16) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written

or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), shall be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(ii);

(c) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

This section shall not be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary. The fact of admission and all information obtained pursuant to this chapter are not admissible as evidence in any legal proceeding outside this chapter, except guardianship or dependency, without the written consent of the minor or the minor's parent.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House April 19, 2005.

Passed by the Senate April 15, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 454

[Substitute House Bill 1689]

DENTISTRY—DENTAL RESIDENCY PROGRAMS—LICENSING

AN ACT Relating to dental health services; amending RCW 18.32.195 and 18.32.040; creating a new section; and providing an effective date.

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

Sec. 1. RCW 18.32.195 and 1994 sp.s. c 9 s 218 are each amended to read as follows:

The commission may, without examination, issue a license to persons who possess the qualifications set forth in this section.

(1) The commission may, upon written request of the dean of the school of dentistry of the University of Washington, issue a license to practice dentistry in this state to persons who have been licensed or otherwise authorized to practice dentistry in another state or country and who have been accepted for employment by the school of dentistry as full-time faculty members. For purposes of this subsection, this means teaching members of the faculty of the school of dentistry of the University of Washington who are so employed on a one hundred percent of work time basis. Such license shall permit the holder thereof to practice dentistry within the confines of the university facilities for a period of one year while he or she is so employed as a full-time faculty member by the school of dentistry of the University of Washington. It shall terminate whenever the holder ceases to be such a full-time faculty member. Such license shall permit the holder thereof to practice dentistry only in connection with his

or her duties in employment with the school of dentistry of the University of Washington. This limitation shall be stated on the license.

(2) The commission may, upon written request of the dean of the school of dentistry of the University of Washington or the director of a dental residency program under RCW 18.32.040, issue a limited license to practice dentistry in this state to university residents in postgraduate dental education or postdoctorate residents in a dental residency program under RCW 18.32.040. The license shall permit the resident dentist to provide dental care only in connection with his or her duties as a university resident or a postdoctorate resident in a program under RCW 18.32.040.

(3) The commission may condition the granting of a license under this section with terms the commission deems appropriate. All persons licensed under this section shall be subject to the jurisdiction of the commission to the same extent as other members of the dental profession, in accordance with this chapter, and in addition the licensee may be disciplined by the commission after a hearing has been held in accordance with the provisions set forth in this chapter, and determination by the commission that such licensee has violated any of the restrictions set forth in this section.

(4) Persons applying for licensure pursuant to this section shall pay the application fee determined by the secretary and, in the event the license applied for is issued, a license fee at the rate provided for licenses generally. After review by the commission, licenses issued under this section may be renewed annually if the licensee continues to be employed as a full-time faculty member of the school of dentistry of the University of Washington, or a university resident in postgraduate dental education, or a postdoctorate resident in a dental residency program under RCW 18.32.040, and otherwise meets the requirements of the provisions and conditions deemed appropriate by the commission. Any person who obtains a license pursuant to this section may, without an additional application fee, apply for licensure under this chapter, in which case the applicant shall be subject to examination and the other requirements of this chapter.

Sec. 2. RCW 18.32.040 and 1994 sp.s. c 9 s 211 are each amended to read as follows:

The commission shall require that every applicant for a license to practice dentistry shall:

(1) Present satisfactory evidence of graduation from a dental college, school, or dental department of an institution approved by the commission;

(2) Submit, for the files of the commission, a recent picture duly identified and attested; and

(3)(a) Pass an examination prepared or approved by and administered under the direction of the commission. The dentistry licensing examination shall consist of practical and written tests upon such subjects and of such scope as the commission determines. ~~((The commission may accept, in lieu of all or part of a written examination, a certificate granted by a national or regional testing organization approved by the commission.))~~ The commission shall set the standards for passing the examination. The secretary shall keep on file the examination papers and records of examination for at least one year. This file shall be open for inspection by the applicant or the applicant's agent unless the disclosure will compromise the examination process as determined by the

commission or is exempted from disclosure under RCW 42.17.250 through 42.17.340.

(b) The commission may accept, in lieu of all or part of the written examination required in (a) of this subsection, a certificate granted by a national or regional testing organization approved by the commission.

(c) The commission shall accept, in lieu of the practical examination required in (a) of this subsection, proof that an applicant has satisfactorily completed a postdoctoral dental residency program accredited by the commission on dental accreditation of the American dental association and approved by the commission, of one to three year's duration, in a community health clinic that serves predominantly low-income patients or is located in a dental care health professional shortage area in this state, and that includes an outcome assessment evaluation, other than the western regional examining board's clinical examination, assessing the resident's competence to practice dentistry. The commission shall develop criteria, consistent with the standards of the commission on dental accreditation of the American dental association, for community clinics to use when sponsoring students in a residency program under this subsection, including guidelines for the proper supervision of the resident and measuring the resident's competence to practice dentistry.

NEW SECTION. Sec. 3. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2005, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 4. This act takes effect July 1, 2006.

Passed by the House April 18, 2005.

Passed by the Senate April 8, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 455

[House Bill 1837]

CHILD WITNESSES

AN ACT Relating to child witnesses; and amending RCW 9A.44.150.

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

Sec. 1. RCW 9A.44.150 and 1990 c 150 s 2 are each amended to read as follows:

(1) On motion of the prosecuting attorney in a criminal proceeding, the court may order that a child under the age of ten may testify in a room outside the presence of the defendant and the jury while one-way closed-circuit television equipment simultaneously projects the child's testimony into another room so the defendant and the jury can watch and hear the child testify if:

(a) The testimony will;

(i) Describe an act or attempted act of sexual contact performed with or on the child witness by another ((or)) person or with or on a child other than the child witness by another person;

(ii) Describe an act or attempted act of physical abuse against the child witness by another person or against a child other than the child witness by another person; or

(iii) Describe a violent offense as defined by RCW 9.94A.030 committed against a person known by or familiar to the child witness or by a person known by or familiar to the child witness;

(b) The testimony is taken during the criminal proceeding;

(c) The court finds by substantial evidence, in a hearing conducted outside the presence of the jury, that requiring the child witness to testify in the presence of the defendant will cause the child to suffer serious emotional or mental distress that will prevent the child from reasonably communicating at the trial. If the defendant is excluded from the presence of the child, the jury must also be excluded;

(d) As provided in subsection (1)(a) and (b) of this section, the court may allow a child witness to testify in the presence of the defendant but outside the presence of the jury, via closed-circuit television, if the court finds, upon motion and hearing outside the presence of the jury, that the child will suffer serious emotional distress that will prevent the child from reasonably communicating at the trial in front of the jury, or, that although the child may be able to reasonably communicate at trial in front of the jury, the child will suffer serious emotional or mental distress from testifying in front of the jury. If the child is able to communicate in front of the defendant but not the jury the defendant will remain in the room with the child while the jury is excluded from the room;

(e) The court finds that the prosecutor has made all reasonable efforts to prepare the child witness for testifying, including informing the child or the child's parent or guardian about community counseling services, giving court tours, and explaining the trial process. If the prosecutor fails to demonstrate that preparations were implemented or the prosecutor in good faith attempted to implement them, the court shall deny the motion;

(f) The court balances the strength of the state's case without the testimony of the child witness against the defendant's constitutional rights and the degree of infringement of the closed-circuit television procedure on those rights;

(g) The court finds that no less restrictive method of obtaining the testimony exists that can adequately protect the child witness from the serious emotional or mental distress;

(h) When the court allows the child witness to testify outside the presence of the defendant, the defendant can communicate constantly with the defense attorney by electronic transmission and be granted reasonable court recesses during the child's testimony for person-to-person consultation with the defense attorney;

(i) The court can communicate with the attorneys by an audio system so that the court can rule on objections and otherwise control the proceedings;

(j) All parties in the room with the child witness are on camera and can be viewed by all other parties. If viewing all participants is not possible, the court shall describe for the viewers the location of the prosecutor, defense attorney, and other participants in relation to the child;

(k) The court finds that the television equipment is capable of making an accurate reproduction and the operator of the equipment is competent to operate the equipment; and

(l) The court imposes reasonable guidelines upon the parties for conducting the filming to avoid trauma to the child witness or abuse of the procedure for tactical advantage.

The prosecutor, defense attorney, and a neutral and trained victim's advocate, if any, shall always be in the room where the child witness is testifying. The court in the court's discretion depending on the circumstances and whether the jury or defendant or both are excluded from the room where the child is testifying, may remain or may not remain in the room with the child.

(2) During the hearing conducted under subsection (1) of this section to determine whether the child witness may testify outside the presence of the defendant and/or the jury, the court may conduct the observation and examination of the child outside the presence of the defendant if:

(a) The prosecutor alleges and the court concurs that the child witness will be unable to testify in front of the defendant or will suffer severe emotional or mental distress if forced to testify in front of the defendant;

(b) The defendant can observe and hear the child witness by closed-circuit television;

(c) The defendant can communicate constantly with the defense attorney during the examination of the child witness by electronic transmission and be granted reasonable court recesses during the child's examination for person-to-person consultation with the defense attorney; and

(d) The court finds the closed-circuit television is capable of making an accurate reproduction and the operator of the equipment is competent to operate the equipment. Whenever possible, all the parties in the room with the child witness shall be on camera so that the viewers can see all the parties. If viewing all participants is not possible, then the court shall describe for the viewers the location of the prosecutor, defense attorney, and other participants in relation to the child.

(3) The court shall make particularized findings on the record articulating the factors upon which the court based its decision to allow the child witness to testify via closed-circuit television pursuant to this section. The factors the court may consider include, but are not limited to, a consideration of the child's age, physical health, emotional stability, expressions by the child of fear of testifying in open court or in front of the defendant, the relationship of the defendant to the child, and the court's observations of the child's inability to reasonably communicate in front of the defendant or in open court. The court's findings shall identify the impact the factors have upon the child's ability to testify in front of the jury or the defendant or both and the specific nature of the emotional or mental trauma the child would suffer. The court shall determine whether the source of the trauma is the presence of the defendant, the jury, or both, and shall limit the use of the closed-circuit television accordingly.

(4) This section does not apply if the defendant is an attorney pro se unless the defendant has a court-appointed attorney assisting the defendant in the defense.

(5) This section may not preclude the presence of both the ~~((victim))~~ child witness and the defendant in the courtroom together for purposes of establishing or challenging the identification of the defendant when identification is a legitimate issue in the proceeding.

(6) The Washington supreme court may adopt rules of procedure regarding closed-circuit television procedures.

(7) All recorded tapes of testimony produced by closed-circuit television equipment shall be subject to any protective order of the court for the purpose of protecting the privacy of the child witness.

(8) Nothing in this section creates a right of the child witness to a closed-circuit television procedure in lieu of testifying in open court.

(9) The state shall bear the costs of the closed-circuit television procedure.

(10) A child witness may or may not be a victim in the proceeding.

(11) Nothing in this section precludes the court, under other circumstances arising under subsection (1)(a) of this section, from allowing a child to testify outside the presence of the defendant and the jury so long as the testimony is presented in accordance with the standards and procedures required in this section.

Passed by the House April 18, 2005.

Passed by the Senate April 6, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 456

[Engrossed House Bill 1848]

MULTIUNIT RESIDENTIAL BUILDINGS

AN ACT Relating to managing construction defect disputes involving multiunit residential buildings; amending RCW 64.34.415, 64.34.410, and 64.34.100; adding a new section to chapter 64.34 RCW; adding a new chapter to Title 64 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. APPLICABILITY. (1)(a) Sections 2 through 10 of this act apply to any multiunit residential building for which the permit for construction or rehabilitative construction of such building was issued on or after the effective date of this act.

(b) Sections 2 and 10 of this act apply to conversion condominiums as defined in RCW 64.34.020, provided that section 10 of this act shall not apply to a condominium conversion for which a public offering statement had been delivered pursuant to chapter 64.34 RCW prior to the effective date of this act.

(2) Sections 2 and 11 through 18 of this act apply to any action that alleges breach of an implied or express warranty under chapter 64.34 RCW or that seeks relief that could be awarded for such breach, regardless of the legal theory pled, except that sections 11 through 18 of this act shall not apply to:

(a) Actions filed or served prior to the effective date of this act;

(b) Actions for which a notice of claim was served pursuant to chapter 64.50 RCW prior to the effective date of this act;

(c) Actions asserting any claim regarding a building that is not a multiunit residential building;

(d) Actions asserting any claim regarding a multiunit residential building that was permitted on or after the effective date of this act unless the letter required by section 7 of this act has been submitted to the appropriate building department or the requirements of section 10 of this act have been satisfied.

(3) Other than the requirements imposed by sections 2 through 10 of this act, nothing in this chapter amends or modifies the provisions of RCW 64.34.050.

NEW SECTION. Sec. 2. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in RCW 64.34.020 and in this section apply throughout this chapter.

(1) "Attached dwelling unit" means any dwelling unit that is attached to another dwelling unit by a wall, floor, or ceiling that separates heated living spaces. A garage is not a heated living space.

(2) "Building enclosure" means that part of any building, above or below grade, that physically separates the outside or exterior environment from interior environments and which weatherproofs, waterproofs, or otherwise protects the building or its components from water or moisture intrusion. Interior environments consist of both heated and unheated enclosed spaces. The building enclosure includes, but is not limited to, that portion of roofs, walls, balcony support columns, decks, windows, doors, vents, and other penetrations through exterior walls, which waterproof, weatherproof, or otherwise protect the building or its components from water or moisture intrusion.

(3) "Building enclosure design documents" means plans, details, and specifications for the building enclosure that have been stamped by a licensed engineer or architect. The building enclosure design documents shall include details and specifications that are appropriate for the building in the professional judgment of the architect or engineer which prepared the same to waterproof, weatherproof, and otherwise protect the building or its components from water or moisture intrusion, including details of flashing, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane, and details around openings.

(4) "Developer" means:

(a) With respect to a condominium or a conversion condominium, the declarant; and

(b) With respect to all other buildings, an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other entity or person that obtains a building permit for the construction or rehabilitative reconstruction of a multiunit residential building. If a permit is obtained by service providers such as architects, contractors, and consultants who obtain permits for others as part of services rendered for a fee, the person for whom the permit is obtained shall be the developer, not the service provider.

(5) "Dwelling unit" has the meaning given to that phrase or similar phrases in the ordinances of the jurisdiction issuing the permit for construction of the building enclosure but if such ordinances do not provide a definition, then "dwelling unit" means a residence containing living, cooking, sleeping, and sanitary facilities.

(6) "Multiunit residential building" means:

(a) A building containing more than two attached dwelling units, including a building containing nonresidential units if the building also contains more than two attached dwelling units, but excluding the following classes of buildings:

- (i) Hotels and motels;
- (ii) Dormitories;
- (iii) Care facilities;

(iv) Floating homes;

(v) A building that contains attached dwelling units that are each located on a single platted lot, except as provided in (b) of this subsection.

(vi) A building in which all of the dwelling units are held under one ownership and is subject to a recorded irrevocable sale prohibition covenant.

(b) If the developer submits to the appropriate building department when applying for the building permit described in section 3 of this act a statement that the developer elects to treat the improvement for which a permit is sought as a multiunit residential building for all purposes under this chapter, then "multiunit residential building" also means the following buildings for which such election has been made:

(i) A building containing only two attached dwelling units;

(ii) A building that does not contain attached dwelling units; and

(iii) Any building that contains attached dwelling units each of which is located on a single platted lot.

(7) "Party unit owner" means a unit owner who is a named party to an action subject to this chapter and does not include any unit owners whose involvement with the action stems solely from their membership in the association.

(8) "Qualified building inspector" means a person satisfying the requirements of section 5 of this act.

(9) "Rehabilitative construction" means construction work on the building enclosure of a multiunit residential building if the cost of such construction work is more than five percent of the assessed value of the building.

(10) "Sale prohibition covenant" means a recorded covenant that prohibits the sale or other disposition of individual dwelling units as or as part of a condominium for five years or more from the date of first occupancy except as otherwise provided in section 10 of this act, a certified copy of which the developer shall submit to the appropriate building department; provided such covenant shall not apply to sales or dispositions listed in RCW 64.34.400(2). The covenant must be recorded in the county in which the building is located and must be in substantially the following form:

This covenant has been recorded in the real property records of County, Washington, in satisfaction of the requirements of sections 2 through 10 of this act. The undersigned is the owner of the property described on Exhibit A (the "Property"). Until termination of this covenant, no dwelling unit in or on the Property may be sold as a condominium unit except for sales listed in RCW 64.34.400(2).

This covenant terminates on the earlier of either: (a) Compliance with the requirements of section 10 of this act, as certified by the owner of the Property in a recorded supplement hereto; or (b) the fifth anniversary of the date of first occupancy of a dwelling unit as certified by the Owner in a recorded supplement hereto.

All title insurance companies and persons acquiring an interest in the Property may rely on the forgoing certifications without further inquiry in issuing any policy of title insurance or in acquiring an interest in the Property.

(11) "Stamped" means bearing the stamp and signature of the responsible licensed architect or engineer on the title page, and on every sheet of the documents, drawings, or specifications, including modifications to the documents, drawings, and specifications that become part of change orders or addenda to alter those documents, drawings, or specifications.

NEW SECTION. Sec. 3. DESIGN DOCUMENTS. (1) Any person applying for a building permit for construction of a multiunit residential building or rehabilitative construction shall submit building enclosure design documents to the appropriate building department prior to the start of construction or rehabilitative construction of the building enclosure. If construction work on a building enclosure is not rehabilitative construction because the cost thereof is not more than five percent of the assessed value of the building, then the person applying for a building permit shall submit to the building department a letter so certifying. Any changes to the building enclosure design documents that alter the manner in which the building or its components is waterproofed, weatherproofed, and otherwise protected from water or moisture intrusion shall be stamped by the architect or engineer and shall be provided to the building department and to the person conducting the course of construction inspection in a timely manner to permit such person to inspect for compliance therewith, and may be provided through individual updates, cumulative updates, or as-built updates.

(2) The building department shall not issue a building permit for construction of the building enclosure of a multiunit residential building or for rehabilitative construction unless the building enclosure design documents contain a stamped statement by the person stamping the building enclosure design documents in substantially the following form: "The undersigned has provided building enclosure documents that in my professional judgment are appropriate to satisfy the requirements of sections 1 through 10 of this act."

(3) The building department is not charged with determining whether the building enclosure design documents are adequate or appropriate to satisfy the requirements of sections 1 through 10 of this act. Nothing in sections 1 through 10 of this act requires a building department to review, approve, or disapprove enclosure design documents.

NEW SECTION. Sec. 4. INSPECTIONS. All multiunit residential buildings shall have the building enclosure inspected by a qualified inspector during the course of initial construction and during rehabilitative construction.

NEW SECTION. Sec. 5. INSPECTORS—QUALIFICATIONS—INDEPENDENCE. (1) A qualified building enclosure inspector:

(a) Must be a person with substantial and verifiable training and experience in building enclosure design and construction;

(b) Shall be free from improper interference or influence relating to the inspections; and

(c) May not be an employee, officer, or director of, nor have any pecuniary interest in, the declarant, developer, association, or any party providing services or materials for the project, or any of their respective affiliates, except that the qualified inspector may be the architect or engineer who approved the building enclosure design documents or the architect or engineer of record. The qualified

inspector may, but is not required to, assist with the preparation of such design documents.

(2) Nothing in this section alters requirements for licensure of any architect, engineer, or other professional, or alters the jurisdiction, authority, or scope of practice of architects, engineers, other professionals, or general contractors.

NEW SECTION. Sec. 6. SCOPE OF INSPECTION. (1) Any inspection required by this chapter shall include, at a minimum, the following:

(a) Water penetration resistance testing of a representative sample of windows and window installations. Such tests shall be conducted according to industry standards. Where appropriate, tests shall be conducted with an induced air pressure difference across the window and window installation. Additional testing is not required if the same assembly has previously been tested in situ within the previous two years in the project under construction by the builder, by another member of the construction team such as an architect or engineer, or by an independent testing laboratory; and

(b) An independent periodic review of the building enclosure during the course of construction or rehabilitative construction to ascertain whether the multiunit residential building has been constructed, or the rehabilitative construction has been performed, in substantial compliance with the building enclosure design documents.

(2) Subsection (1)(a) of this section shall not apply to rehabilitative construction if the windows and adjacent cladding are not altered in the rehabilitative construction.

(3) "Project" means one or more parcels of land in a single ownership, which are under development pursuant to a single land use approval or building permit, where window installation is performed by the owner with its own forces, or by the same general contractor, or, if the owner is contracting directly with trade contractors, is performed by the same trade contractor.

NEW SECTION. Sec. 7. CERTIFICATION—CERTIFICATE OF OCCUPANCY. Upon completion of an inspection required by this chapter, the qualified inspector shall prepare and submit to the appropriate building department a signed letter certifying that the building enclosure has been inspected during the course of construction or rehabilitative construction and that it has been constructed or reconstructed in substantial compliance with the building enclosure design documents, as updated pursuant to section 3 of this act. The building department shall not issue a final certificate of occupancy or other equivalent final acceptance until the letter required by this section has been submitted. The building department is not charged with and has no responsibility for determining whether the building enclosure inspection is adequate or appropriate to satisfy the requirements of this chapter.

NEW SECTION. Sec. 8. INSPECTOR, ARCHITECT, AND ENGINEER LIABILITY. (1) Nothing in this act is intended to, or does:

(a) Create a private right of action against any inspector, architect, or engineer based upon compliance or noncompliance with its provisions; or

(b) Create any independent basis for liability against an inspector, architect, or engineer.

(2) The qualified inspector, architect, or engineer and the developer that retained the inspector, architect, or engineer may contractually agree to the amount of their liability to the developer.

NEW SECTION. Sec. 9. NO EVIDENTIARY PRESUMPTION—ADMISSIBILITY. A qualified inspector's report or testimony regarding an inspection conducted pursuant to this chapter is not entitled to any evidentiary presumption in any arbitration or court proceeding. Nothing in this chapter restricts the admissibility of such a report or testimony, and questions of the admissibility of such a report or testimony shall be determined under the rules of evidence.

NEW SECTION. Sec. 10. NO SALE OF CONDOMINIUM UNIT ABSENT COMPLIANCE. (1) Except for sales or other dispositions listed in RCW 64.34.400(2), no declarant may convey a condominium unit that may be occupied for residential use in a multiunit residential building without first complying with the requirements of sections 1 through 9 of this act unless the building enclosure of the building in which such unit is included is inspected by a qualified building enclosure inspector, and:

(a) The inspection includes such intrusive or other testing, such as the removal of siding or other building enclosure materials, that the inspector believes, in his or her professional judgment, is necessary to ascertain the manner in which the building enclosure was constructed;

(b) The inspection evaluates, to the extent reasonably ascertainable and in the professional judgment of the inspector, the present condition of the building enclosure including whether such condition has adversely affected or will adversely affect the performance of the building enclosure to waterproof, weatherproof, or otherwise protect the building or its components from water or moisture intrusion. "Adversely affect" has the same meaning as provided in RCW 64.34.445(7);

(c) The inspection report includes recommendations for repairs to the building enclosure that, in the professional judgment of the qualified building inspector, are necessary to: (i) Repair a design or construction defect in the building enclosure that results in the failure of the building enclosure to perform its intended function and allows unintended water penetration not caused by flooding; and (ii) repair damage caused by such a defect that has an adverse effect as provided in RCW 64.34.445(7);

(d) With respect to a building that would be a multiunit residential building but for the recording of a sale prohibition covenant and unless more than five years have elapsed since the date such covenant was recorded, all repairs to the building enclosure recommended pursuant to (c) of this subsection have been made; and

(e) The declarant provides as part of the public offering statement, consistent with RCW 64.34.410 (1)(nn) and (2) and 64.34.415(1)(b), an inspection and repair report signed by the qualified building enclosure inspector that identifies:

- (i) The extent of the inspection performed pursuant to this section;
- (ii) The information obtained as a result of that inspection; and

(iii) The manner in which any repairs required by this section were performed, the scope of those repairs, and the names of the persons performing those repairs.

(2) Failure to deliver the inspection and repair report in violation of this section constitutes a failure to deliver a public offering statement for purposes of chapter 64.34 RCW.

NEW SECTION. Sec. 11. ARBITRATION—ELECTION—NUMBER OF ARBITRATORS—QUALIFICATIONS—TRIAL DE NOVO. (1) If the declarant, an association, or a party unit owner demands an arbitration by filing such demand with the court not less than thirty and not more than ninety days after filing or service of the complaint, whichever is later, the parties shall participate in a private arbitration hearing. The declarant, the association, and the party unit owner do not have the right to compel arbitration without giving timely notice in compliance with this subsection. Unless otherwise agreed by the parties, the arbitration hearing shall commence no more than fourteen months from the later of the filing or service of the complaint.

(2) Unless otherwise agreed by the parties, claims that in aggregate are for less than one million dollars shall be heard by a single arbitrator and all other claims shall be heard by three arbitrators. As used in this chapter, arbitrator also means arbitrators where applicable.

(3) Unless otherwise agreed by the parties, the court shall appoint the arbitrator, who shall be a current or former attorney with experience as an attorney, judge, arbitrator, or mediator in construction defect disputes involving the application of Washington law.

(4) Upon conclusion of the arbitration hearing, the arbitrator shall file the decision and award with the clerk of the superior court, together with proof of service thereof on the parties. Within twenty days after the filing of the decision and award, any aggrieved party may file with the clerk a written notice of appeal and demand for a trial de novo in the superior court on all claims between the appealing party and an adverse party. As used in this section, "adverse party" means the party who either directly asserted or defended claims against the appealing party. The demand shall identify the adverse party or parties and all claims between those parties shall be included in the trial de novo. The right to a trial de novo includes the right to a jury, if demanded. The court shall give priority to the trial date for the trial de novo.

(5) If the judgment for damages, not including awards of fees and costs, in the trial de novo is not more favorable to the appealing party than the damages awarded by the arbitrator, not including awards of fees and costs, the appealing party shall pay the nonappealing adverse party's costs and fees incurred after the filing of the appeal, including reasonable attorneys' fees so incurred.

(6) If the judgment for damages, not including awards of fees and costs, in the trial de novo is more favorable to the appealing party than the damages awarded by the arbitrator, not including awards of fees and costs, then the court may award costs and fees, including reasonable attorneys' fees, incurred after the filing of the request for trial de novo in accordance with applicable law; provided if such a judgment is not more favorable to the appealing party than the most recent offer of judgment, if any, made pursuant to section 17 of this act, the court shall not make an award of fees and costs to the appealing party.

(7) If a party is entitled to an award with respect to the same fees and costs pursuant to this section and section 17 of this act, then the party shall only receive an award of fees and costs as provided in and limited by section 17 of this act. Any award of fees and costs pursuant to subsections (5) or (6) of this section is subject to review in the event of any appeal thereof otherwise permitted by applicable law or court rule.

NEW SECTION. Sec. 12. CASE SCHEDULE PLAN. (1) Not less than sixty days after the later of filing or service of the complaint, the parties shall confer to create a proposed case schedule plan for submission to the court that includes the following deadlines:

- (a) Selection of a mediator;
- (b) Commencement of the mandatory mediation and submission of mediation materials required by this chapter;
- (c) Selection of the arbitrator by the parties, where applicable;
- (d) Joinder of additional parties in the action;
- (e) Completion of each party's investigation;
- (f) Disclosure of each party's proposed repair plan;
- (g) Disclosure of each party's estimated costs of repair;
- (h) Meeting of parties and experts to confer in accordance with section 13 of this act; and

(i) Disclosure of each party's settlement demand or response.

(2) If the parties agree upon a proposed case schedule plan, they shall move the court for the entry of the proposed case schedule plan. If the parties cannot agree, either party may move the court for entry of a case schedule plan that includes the above deadlines.

NEW SECTION. Sec. 13. MANDATORY MEDIATION. (1) The parties to an action subject to this act shall engage in mediation. Unless the parties agree otherwise, the mediation required by this section shall commence within seven months of the later of the filing or service of the complaint. If the parties cannot agree upon a mediator, the court shall appoint a mediator.

(2) Prior to the mediation required by this section, the parties and their experts shall meet and confer in good faith to attempt to resolve or narrow the scope of the disputed issues, including issues related to the parties' repair plans.

(3) Prior to the mandatory mediation, the parties or their attorneys shall file and serve a declaration that:

(a) A decision maker with authority to settle will be available for the duration of the mandatory mediation; and

(b) The decision maker has been provided with and has reviewed the mediation materials provided by the party to which the decision maker is affiliated as well as the materials submitted by the opposing parties.

(4) Completion of the mediation required by this section occurs upon written notice of termination by any party. The provisions of section 17 of this act shall not apply to any later mediation conducted following such notice.

NEW SECTION. Sec. 14. NEUTRAL EXPERT. (1) If, after meeting and conferring as required by section 13(2) of this act, disputed issues remain, a party may file a motion with the court, or arbitrator if an arbitrator has been appointed, requesting the appointment of a neutral expert to address any or all of the disputed issues. Unless otherwise agreed to by the parties or upon a showing

of exceptional circumstances, including a material adverse change in a party's litigation risks due to a change in allegations, claims, or defenses by an adverse party following the appointment of the neutral expert, any such motion shall be filed no later than sixty days after the first day of the meeting required by section 13(2) of this act. Upon such a request, the court or arbitrator shall decide whether or not to appoint a neutral expert or experts. A party may only request more than one neutral expert if the particular expertise of the additional neutral expert or experts is necessary to address disputed issues.

(2) The neutral expert shall be a licensed architect or engineer, or any other person, with substantial experience relevant to the issue or issues in dispute. The neutral expert shall not have been employed as an expert by a party to the present action within three years before the commencement of the present action, unless the parties agree otherwise.

(3) All parties shall be given an opportunity to recommend neutral experts to the court or arbitrator and shall have input regarding the appointment of a neutral expert.

(4) Unless the parties agree otherwise on the following matters, the court, or arbitrator if then appointed, shall determine:

(a) Who shall serve as the neutral expert;

(b) Subject to the requirements of this section, the scope of the neutral expert's duties;

(c) The number and timing of inspections of the property;

(d) Coordination of inspection activities with the parties' experts;

(e) The neutral expert's access to the work product of the parties' experts;

(f) The product to be prepared by the neutral expert;

(g) Whether the neutral expert may participate personally in the mediation required by section 13 of this act; and

(h) Other matters relevant to the neutral expert's assignment.

(5) Unless the parties agree otherwise, the neutral expert shall not make findings or render opinions regarding the amount of damages to be awarded, or the cost of repairs, or absent exceptional circumstances any matters that are not in dispute as determined in the meeting described in section 13(2) of this act or otherwise.

(6) A party may, by motion to the court, or to the arbitrator if then appointed, object to the individual appointed to serve as the neutral expert and to determinations regarding the neutral expert's assignment.

(7) The neutral expert shall have no liability to the parties for the performance of his or her duties as the neutral expert.

(8) Except as otherwise agreed by the parties, the parties have a right to review and comment on the neutral expert's report before it is made final.

(9) A neutral expert's report or testimony is not entitled to any evidentiary presumption in any arbitration or court proceeding. Nothing in this act restricts the admissibility of such a report or testimony, provided it is within the scope of the neutral expert's assigned duties, and questions of the admissibility of such a report or testimony shall be determined under the rules of evidence.

(10) The court, or arbitrator if then appointed, shall determine the significance of the neutral expert's report and testimony with respect to parties joined after the neutral expert's appointment and shall determine whether

additional neutral experts should be appointed or other measures should be taken to protect such joined parties from undue prejudice.

NEW SECTION. Sec. 15. PAYMENT OF ARBITRATORS, MEDIATORS, AND NEUTRAL EXPERTS. (1) Where the building permit that authorized commencement of construction of a building was issued on or after the effective date of this act:

(a)(i) If the action is referred to arbitration under section 11 of this act, the party who demands arbitration shall advance the fees of any arbitrator and any mediator appointed under section 13 of this act; and

(ii) A party who requests the appointment of a neutral expert pursuant to section 14 of this act shall advance any appointed neutral expert's fees incurred up to the issuance of a final report.

(b) If the action has not been referred to arbitration, the court shall determine liability for the fees of any mediator appointed under section 13 of this act, unless the parties agree otherwise.

(c) Ultimate liability for any fees or costs advanced pursuant to this subsection (1) is subject to the fee- and cost-shifting provisions of section 17 of this act.

(2) Where the building permit that authorized commencement of construction of a building was issued before the effective date of this act:

(a)(i) If the action is referred to arbitration under section 11 of this act, the party who demands arbitration is liable for and shall pay the fees of any appointed arbitrator and any mediator appointed under section 13 of this act; and

(ii) A party who requests the appointment of a neutral expert pursuant to section 14 of this act is liable for and shall pay any appointed neutral expert's fees incurred up to the issuance of a final report.

(b) If the action has not been referred to arbitration, the court shall determine liability for the fees of any mediator appointed under section 13 of this act, unless the parties agree otherwise.

(c) Fees and costs paid under this subsection (2) are not subject to the fee- and cost-shifting provisions of section 17 of this act.

NEW SECTION. Sec. 16. SUBCONTRACTORS. Upon the demand of a party to an arbitration demanded under section 11 of this act, any subcontractor or supplier against whom such party has a legal claim and whose work or performance on the building in question becomes an issue in the arbitration may be joined in and become a party to the arbitration. However, joinder of such parties shall not be allowed if such joinder would require the arbitration hearing date to be continued beyond the date established pursuant to section 11 of this act, unless the existing parties to the arbitration agree otherwise. Nothing in sections 2 through 10 of this act shall be construed to release, modify, or otherwise alleviate the liabilities or responsibilities that any party may have towards any other party, contractor, or subcontractor.

NEW SECTION. Sec. 17. OFFERS OF JUDGMENT—COSTS AND FEES. (1) On or before the sixtieth day following completion of the mediation pursuant to section 13(4) of this act, the declarant, association, or party unit owner may serve on an adverse party an offer to allow judgment to be entered. The offer of judgment shall specify the amount of damages, not including costs or fees, that the declarant, association, or party unit owner is offering to pay or

receive. A declarant's offer shall also include its commitment to pay costs and fees that may be awarded as provided in this section. The declarant, association, or party unit owner may make more than one offer of judgment so long as each offer is timely made. Each subsequent offer supersedes and replaces the previous offer. Any offer not accepted within twenty-one days of the service of that offer is deemed rejected and withdrawn and evidence thereof is not admissible and may not be provided to the court or arbitrator except in a proceeding to determine costs and fees or as part of the motion identified in subsection (2) of this section.

(2) A declarant's offer must include a demonstration of ability to pay damages, costs, and fees, including reasonable attorneys' fees, within thirty days of acceptance of the offer of judgment. The demonstration of ability to pay shall include a sworn statement signed by the declarant, the attorney representing the declarant, and, if any insurance proceeds will be used to fund any portion of the offer, an authorized representative of the insurance company. If the association or party unit owner disputes the adequacy of the declarant's demonstration of ability to pay, the association or party unit owner may file a motion with the court requesting a ruling on the adequacy of the declarant's demonstration of ability to pay. Upon filing of such motion, the deadline for a response to the offer shall be tolled from the date the motion is filed until the court has ruled.

(3) An association or party unit owner that accepts the declarant's offer of judgment shall be deemed the prevailing party and, in addition to recovery of the amount of the offer, shall be entitled to a costs and fees award, including reasonable attorneys' fees, in an amount to be determined by the court in accordance with applicable law.

(4) If the amount of the final nonappealable or nonappealed judgment, exclusive of costs or fees, is not more favorable to the offeree than the offer of judgment, then the offeror is deemed the prevailing party for purposes of this section only and is entitled to an award of costs and fees, including reasonable attorneys' fees, incurred after the date the last offer of judgment was rejected and through the date of entry of a final nonappealable or nonappealed judgment, in an amount to be determined by the court in accordance with applicable law. The nonprevailing party shall not be entitled to receive any award of costs and fees.

(5) If the final nonappealable or nonappealed judgment on damages, not including costs or fees, is more favorable to the offeree than the last offer of judgment, then the court shall determine which party is the prevailing party and shall determine the amount of the costs and fees award, including reasonable attorneys' fees, in accordance with applicable law.

(6) Notwithstanding any other provision in this section, with respect to claims brought by an association or unit owner, the liability for declarant's costs and fees, including reasonable attorneys' fees, shall:

(a) With respect to claims brought by an association, not exceed five percent of the assessed value of the condominium as a whole, which is determined by the aggregate tax-assessed value of all units at the time of the award; and

(b) With respect to claims brought by a party unit owner, not exceed five percent of the assessed value of the unit at the time of the award.

Sec. 18. RCW 64.34.415 and 1992 c 220 s 22 are each amended to read as follows:

(1) The public offering statement of a conversion condominium shall contain, in addition to the information required by RCW 64.34.410:

(a) Either a copy of a report prepared by an independent, licensed architect or engineer, or a statement by the declarant based on such report, which report or statement describes, to the extent reasonably ascertainable, the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the condominium;

(b) A copy of the inspection and repair report prepared by an independent, licensed architect, engineer, or qualified building inspector in accordance with the requirements of section 10 of this act;

(c) A statement by the declarant of the expected useful life of each item reported on in (a) of this subsection or a statement that no representations are made in that regard; and

~~((e))~~ (d) A list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the estimated cost of curing those violations. Unless the purchaser waives in writing the curing of specific violations, the extent to which the declarant will cure such violations prior to the closing of the sale of a unit in the condominium shall be included.

(2) This section applies only to condominiums containing units that may be occupied for residential use.

Sec. 19. RCW 64.34.410 and 2004 c 201 s 11 are each amended to read as follows:

(1) A public offering statement shall contain the following information:

(a) The name and address of the condominium;

(b) The name and address of the declarant;

(c) The name and address of the management company, if any;

(d) The relationship of the management company to the declarant, if any;

(e) A list of up to the five most recent condominium projects completed by the declarant or an affiliate of the declarant within the past five years, including the names of the condominiums, their addresses, and the number of existing units in each. For the purpose of this section, a condominium is "completed" when any one unit therein has been rented or sold;

(f) The nature of the interest being offered for sale;

(g) A brief description of the permitted uses and use restrictions pertaining to the units and the common elements;

(h) A brief description of the restrictions, if any, on the renting or leasing of units by the declarant or other unit owners, together with the rights, if any, of the declarant to rent or lease at least a majority of units;

(i) The number of existing units in the condominium and the maximum number of units that may be added to the condominium;

(j) A list of the principal common amenities in the condominium which materially affect the value of the condominium and those that will or may be added to the condominium;

(k) A list of the limited common elements assigned to the units being offered for sale;

(l) The identification of any real property not in the condominium, the owner of which has access to any of the common elements, and a description of the terms of such access;

(m) The identification of any real property not in the condominium to which unit owners have access and a description of the terms of such access;

(n) The status of construction of the units and common elements, including estimated dates of completion if not completed;

(o) The estimated current common expense liability for the units being offered;

(p) An estimate of any payment with respect to the common expense liability for the units being offered which will be due at closing;

(q) The estimated current amount and purpose of any fees not included in the common expenses and charged by the declarant or the association for the use of any of the common elements;

(r) Any assessments which have been agreed to or are known to the declarant and which, if not paid, may constitute a lien against any units or common elements in favor of any governmental agency;

(s) The identification of any parts of the condominium, other than the units, which any individual owner will have the responsibility for maintaining;

(t) If the condominium involves a conversion condominium, the information required by RCW 64.34.415;

(u) Whether timesharing is restricted or prohibited, and if restricted, a general description of such restrictions;

(v) A list of all development rights reserved to the declarant and all special declarant rights reserved to the declarant, together with the dates such rights must terminate, and a copy of or reference by recording number to any recorded transfer of a special declarant right;

(w) A description of any material differences in terms of furnishings, fixtures, finishes, and equipment between any model unit available to the purchaser at the time the agreement for sale is executed and the unit being offered;

(x) Any liens on real property to be conveyed to the association required to be disclosed pursuant to RCW 64.34.435(2)(b);

(y) A list of any physical hazards known to the declarant which particularly affect the condominium or the immediate vicinity in which the condominium is located and which are not readily ascertainable by the purchaser;

(z) A brief description of any construction warranties to be provided to the purchaser;

(aa) Any building code violation citations received by the declarant in connection with the condominium which have not been corrected;

(bb) A statement of any unsatisfied judgments or pending suits against the association, a statement of the status of any pending suits material to the condominium of which the declarant has actual knowledge, and a statement of any litigation brought by an owners' association, unit owner, or governmental entity in which the declarant or any affiliate of the declarant has been a defendant, arising out of the construction, sale, or administration of any condominium within the previous five years, together with the results thereof, if known;

(cc) Any rights of first refusal to lease or purchase any unit or any of the common elements;

(dd) The extent to which the insurance provided by the association covers furnishings, fixtures, and equipment located in the unit;

(ee) A notice which describes a purchaser's right to cancel the purchase agreement or extend the closing under RCW 64.34.420, including applicable time frames and procedures;

(ff) Any reports or statements required by RCW 64.34.415 or 64.34.440(6)(a). RCW 64.34.415 shall apply to the public offering statement of a condominium in connection with which a final certificate of occupancy was issued more than sixty calendar months prior to the preparation of the public offering statement whether or not the condominium is a conversion condominium as defined in RCW 64.34.020(10);

(gg) A list of the documents which the prospective purchaser is entitled to receive from the declarant before the rescission period commences;

(hh) A notice which states: A purchaser may not rely on any representation or express warranty unless it is contained in the public offering statement or made in writing signed by the declarant or by any person identified in the public offering statement as the declarant's agent;

(ii) A notice which states: This public offering statement is only a summary of some of the significant aspects of purchasing a unit in this condominium and the condominium documents are complex, contain other important information, and create binding legal obligations. You should consider seeking the assistance of legal counsel;

(jj) Any other information and cross-references which the declarant believes will be helpful in describing the condominium to the recipients of the public offering statement, all of which may be included or not included at the option of the declarant;

(kk) A notice that addresses compliance or noncompliance with the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995;

(ll) A notice that is substantially in the form required by RCW 64.50.050; ~~(and)~~

(mm) A statement, as required by RCW 64.35.210, as to whether the units or common elements of the condominium are covered by a qualified warranty, and a history of claims under any such warranty; and

(nn) A statement that the building enclosure has been designed and inspected as required by sections 2 through 10 of this act, and, if required, repaired in accordance with the requirements of section 10 of this act.

(2) The public offering statement shall include copies of each of the following documents: The declaration, the survey map and plans, the articles of incorporation of the association, bylaws of the association, rules and regulations, if any, current or proposed budget for the association, ~~(and)~~ the balance sheet of the association current within ninety days if assessments have been collected for ninety days or more, and the inspection and repair report or reports prepared in accordance with the requirements of section 10 of this act.

If any of the foregoing documents listed in this subsection are not available because they have not been executed, adopted, or recorded, drafts of such documents shall be provided with the public offering statement, and, before closing the sale of a unit, the purchaser shall be given copies of any material changes between the draft of the proposed documents and the final documents.

(3) The disclosures required by subsection (1)(g), (k), (s), (u), (v), and (cc) of this section shall also contain a reference to specific sections in the condominium documents which further explain the information disclosed.

(4) The disclosures required by subsection (1)(ee), (hh), (ii), and (ll) of this section shall be located at the top of the first page of the public offering statement and be typed or printed in ten-point bold face type size.

(5) A declarant shall promptly amend the public offering statement to reflect any material change in the information required by this section.

Sec. 20. RCW 64.34.100 and 2004 c 201 s 2 are each amended to read as follows:

(1) The remedies provided by this chapter shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. However, consequential, special, or punitive damages may not be awarded except as specifically provided in this chapter or by other rule of law.

(2) Except as otherwise provided in sections 11 through 17 of this act or chapter 64.35 RCW, any right or obligation declared by this chapter is enforceable by judicial proceeding. The arbitration proceedings provided for in sections 11 through 17 of this act shall be considered judicial proceedings for the purposes of this chapter.

NEW SECTION. Sec. 21. A new section is added to Article 1 of chapter 64.34 RCW to read as follows:

Chapter 64.— RCW (sections 1 through 17 of this act) includes requirements for: The inspection of the building enclosures of multiunit residential buildings, as defined in section 2 of this act, which includes condominiums and conversion condominiums; for provision of inspection and repair reports; and for the resolution of implied or express warranty disputes under chapter 64.34 RCW.

NEW SECTION. Sec. 22. CAPTIONS. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 23. Sections 1 through 17 of this act constitute a new chapter in Title 64 RCW.

NEW SECTION. Sec. 24. EFFECTIVE DATE. This act takes effect August 1, 2005.

Passed by the House April 19, 2005.

Passed by the Senate April 8, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 457

[Engrossed Second Substitute Senate Bill 5454]

COURTS—FUNDING

AN ACT Relating to court operations; amending RCW 3.62.050, 2.56.030, 43.08.250, 3.62.060, 4.12.090, 10.46.190, 12.12.030, 12.40.020, 26.12.240, 27.24.070, 36.18.012, 36.18.016, and 36.18.020; adding a new section to chapter 3.46 RCW; adding a new section to chapter 3.50 RCW; adding a new section to chapter 3.58 RCW; adding a new section to chapter 35.20 RCW; adding a new section to chapter 3.62 RCW; creating a new section; and making appropriations.

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

NEW SECTION. Sec. 1. The legislature recognizes the state's obligation to provide adequate representation to criminal indigent defendants and to parents in dependency and termination cases. The legislature also recognizes that trial courts are critical to maintaining the rule of law in a free society and that they are essential to the protection of the rights and enforcement of obligations for all. Therefore, the legislature intends to create a dedicated revenue source for the purposes of meeting the state's commitment to improving trial courts in the state, providing adequate representation to criminal indigent defendants, providing for civil legal services for indigent persons, and ensuring equal justice for all citizens of the state.

NEW SECTION. Sec. 2. A new section is added to chapter 3.46 RCW to read as follows:

Any city operating a municipal department under this chapter for which the state contributes to district or municipal court judges' salaries under section 7 of this act shall create a city trial court improvement account. An amount equal to one hundred percent of the state's contribution received by the city for the payment of the city's proportionate share of the district or municipal court judges' salaries shall be deposited into the account. Money in the account shall be used to fund improvements to the municipal department's staffing, programs, facilities, or services, as appropriated by the city legislative authority.

NEW SECTION. Sec. 3. A new section is added to chapter 3.50 RCW to read as follows:

Any city or town operating a municipal court under this chapter for which the state contributes to municipal court judges' salaries under section 7 of this act shall create a city or town trial court improvement account. An amount equal to one hundred percent of the state's contribution for the payment of the city's or town's municipal court judges' salaries shall be deposited into the account. Money in the account shall be used to fund improvements to the municipal court's staffing, programs, facilities, or services, as appropriated by the city or town legislative authority.

NEW SECTION. Sec. 4. A new section is added to chapter 3.58 RCW to read as follows:

Any county with a district court created under this title shall create a county trial court improvement account. An amount equal to one hundred percent of the state's contribution received by the county for the payment of district court judges' salaries under section 8 of this act shall be deposited into the account. Money in the account shall be used to fund improvements to superior and district court staffing, programs, facilities, or services, as appropriated by the county legislative authority.

NEW SECTION. Sec. 5. A new section is added to chapter 35.20 RCW to read as follows:

Any city operating a municipal court under this chapter that receives state contribution for municipal court judges' salaries under section 7 of this act shall create a city trial court improvement account. An amount equal to one hundred percent of the state's contribution for the payment of municipal judges' salaries shall be deposited into the account. Money in the account shall be used to fund improvements to the municipal court's staffing, programs, facilities, or services, as appropriated by the city legislative authority.

Sec. 6. RCW 3.62.050 and 1987 c 202 s 114 are each amended to read as follows:

The total expenditures of the district courts, including the cost of providing courtroom and office space, the cost of probation and parole services and any personnel employment therefor, and the cost of providing services necessary for the preparation and presentation of a defense at public expense, except costs of defense to be paid by a city pursuant to RCW 3.62.070 and the portion of district court judges' salaries distributed by the administrator for the courts pursuant to section 7 of this act, shall be paid from the county current expense fund.

Sec. 7. RCW 2.56.030 and 2002 c 49 s 2 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of the chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Submit annually, as of February 1st, to the chief justice, a report of the activities of the administrator's office for the preceding calendar year including activities related to courthouse security;

(10) Administer programs and standards for the training and education of judicial personnel;

(11) Examine the need for new superior court and district judge positions under a weighted caseload analysis that takes into account the time required to hear all the cases in a particular court and the amount of time existing judges have available to hear cases in that court. The results of the weighted caseload analysis shall be reviewed by the board for judicial administration which shall make recommendations to the legislature. It is the intent of the legislature that

weighted caseload analysis become the basis for creating additional district court positions, and recommendations should address that objective;

(12) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;

(13) Attend to such other matters as may be assigned by the supreme court of this state;

(14) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers and be updated yearly to reflect changes in statutes, court rules, or case law;

(15) Develop, in consultation with the entities set forth in RCW 2.56.150(3), a comprehensive statewide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 1997, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem;

(16) Develop a curriculum for a general understanding of crimes of malicious harassment, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of malicious harassment victims. This curriculum shall be made available to all superior court and court of appeals judges and to all justices of the supreme court;

(17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts statewide;

(18) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required;

(19) Develop a Washington family law handbook in accordance with RCW 2.56.180;

(20)(a) Administer and distribute amounts appropriated from the equal justice subaccount under RCW 43.08.250(2) for district court judges' and qualifying elected municipal court judges' salary contributions. The administrator for the courts shall develop a distribution formula for these amounts that does not differentiate between district and elected municipal court judges.

(b) A city qualifies for state contribution of elected municipal court judges' salaries under (a) of this subsection if:

(i) The judge is serving in an elected position;

(ii) The city has established by ordinance that a full-time judge is compensated at a rate equivalent to at least ninety-five percent, but not more than one hundred percent, of a district court judge salary or for a part-time judge on a pro rata basis the same equivalent; and

(iii) The city has certified to the office of the administrator for the courts that the conditions in (b)(i) and (ii) of this subsection have been met.

Sec. 8. RCW 43.08.250 and 2003 1st sp.s. c 25 s 918 are each amended to read as follows:

(1) The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the public safety and education account which is hereby created in the state treasury. The legislature shall appropriate the funds in the account to promote traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, civil representation of indigent persons, winter recreation parking, drug court operations, and state game programs. During the fiscal biennium ending June 30, 2005, the legislature may appropriate moneys from the public safety and education account for purposes of appellate indigent defense and other operations of the office of public defense, the criminal litigation unit of the attorney general's office, the treatment alternatives to street crimes program, crime victims advocacy programs, justice information network telecommunication planning, treatment for supplemental security income clients, sexual assault treatment, operations of the office of administrator for the courts, security in the common schools, alternative school start-up grants, programs for disruptive students, criminal justice data collection, Washington state patrol criminal justice activities, drug court operations, unified family courts, local court backlog assistance, financial assistance to local jurisdictions for extraordinary costs incurred in the adjudication of criminal cases, domestic violence treatment and related services, the department of corrections' costs in implementing chapter 196, Laws of 1999, reimbursement of local governments for costs associated with implementing criminal and civil justice legislation, the replacement of the department of corrections' offender-based tracking system, secure and semi-secure crisis residential centers, HOPE beds, the family policy council and community public health and safety networks, the street youth program, public notification about registered sex offenders, and narcotics or methamphetamine-related enforcement, education, training, and drug and alcohol treatment services.

(2)(a) The equal justice subaccount is created as a subaccount of the public safety and education account. The money received by the state treasurer from the increase in fees imposed by sections 9, 10, 12, 13, 14, 17, and 19, chapter . . . (this act), Laws of 2005 shall be deposited in the equal justice subaccount and shall be appropriated only for:

(i) Criminal indigent defense assistance and enhancement at the trial court level, including a criminal indigent defense pilot program; (ii) Representation of parents in dependency and termination proceedings;

(iii) Civil legal representation of indigent persons; and

(iv) Contribution to district court judges' salaries and to eligible elected municipal court judges' salaries.

(b) For the 2005-07 fiscal biennium, an amount equal to twenty-five percent of revenues to the equal justice subaccount, less one million dollars, shall be appropriated from the equal justice subaccount to the administrator for the courts for purposes of (a)(iv) of this subsection. For the 2007-09 fiscal biennium and subsequent fiscal biennia, an amount equal to fifty percent of revenues to the equal justice subaccount shall be appropriated from the equal justice subaccount to the administrator for the courts for the purposes of (a)(iv) of this subsection.

Sec. 9. RCW 3.62.060 and 2003 c 222 s 15 are each amended to read as follows:

Clerks of the district courts shall collect the following fees for their official services:

(1) In any civil action commenced before or transferred to a district court, the plaintiff shall, at the time of such commencement or transfer, pay to such court a filing fee of ~~((thirty-one))~~ forty-three dollars plus any surcharge authorized by RCW 7.75.035. Any party filing a counterclaim, cross-claim, or third-party claim in such action shall pay to the court a filing fee of forty-three dollars plus any surcharge authorized by RCW 7.75.035. No party shall be compelled to pay to the court any other fees or charges up to and including the rendition of judgment in the action other than those listed.

(2) For issuing a writ of garnishment or other writ, or for filing an attorney issued writ of garnishment, a fee of ~~((six))~~ twelve dollars.

(3) For filing a supplemental proceeding a fee of ~~((twelve))~~ twenty dollars.

(4) For demanding a jury in a civil case a fee of ~~((fifty))~~ one hundred twenty-five dollars to be paid by the person demanding a jury.

(5) For preparing a transcript of a judgment a fee of ~~((six))~~ twenty dollars.

(6) For certifying any document on file or of record in the clerk's office a fee of five dollars.

(7) For preparing the record of a case for appeal to superior court a fee of forty dollars including any costs of tape duplication as governed by the rules of appeal for courts of limited jurisdiction (RALJ).

(8) For duplication of part or all of the electronic ~~((tape or tapes))~~ recording of a proceeding ten dollars per tape or other electronic storage medium.

The fees or charges imposed under this section shall be allowed as court costs whenever a judgment for costs is awarded.

NEW SECTION. Sec. 10. A new section is added to chapter 3.62 RCW to read as follows:

Upon conviction or a plea of guilty in any court organized under this title or Title 35 RCW, a defendant in a criminal case is liable for a fee of forty-three dollars. This fee shall be subject to division with the state under RCW 3.46.120(2), 3.50.100(2), 3.62.020(2), 3.62.040(2), and 35.20.220(2).

Sec. 11. RCW 4.12.090 and 1969 ex.s. c 144 s 1 are each amended to read as follows:

(1) When an order is made transferring an action or proceeding for trial, the clerk of the court must transmit the pleadings and papers therein to the court to which it is transferred and charge a fee as provided in RCW 36.18.016. The costs and fees thereof and of filing the papers anew must be paid by the party at

whose instance the order was made, except in the cases mentioned in RCW 4.12.030(1), in which case the plaintiff shall pay costs of transfer and, in addition thereto, if the court finds that the plaintiff could have determined the county of proper venue with reasonable diligence, it shall order the plaintiff to pay the reasonable attorney's fee of the defendant for the changing of venue to the proper county. The court to which an action or proceeding is transferred has and exercises over the same the like jurisdiction as if it had been originally commenced therein.

(2) In acting on any motion for dismissal without prejudice in a case where a motion for change of venue under subsection (1) of this section has been made, the court shall, if it determines the motion for change of venue proper, determine the amount of attorney's fee properly to be awarded to defendant and, if the action be dismissed, the attorney's fee shall be a setoff against any claim subsequently brought on the same cause of action.

Sec. 12. RCW 10.46.190 and 1977 ex.s. c 248 s 1 are each amended to read as follows:

Every person convicted of a crime or held to bail to keep the peace shall be liable to all the costs of the proceedings against him or her, including, when tried by a jury in the superior court or before a committing magistrate, a jury fee as provided for in civil actions(~~(, and when tried by a jury before a committing magistrate, twenty-five dollars for jury fee,)~~) for which judgment shall be rendered and (~~(collection had as in cases of fines)~~) collected. The jury fee, when collected for a case tried by the superior court, shall be paid to the clerk(~~(, to be by him)~~) and applied as the jury fee in civil cases is applied.

Sec. 13. RCW 12.12.030 and 1981 c 260 s 3 are each amended to read as follows:

After the appearance of the defendant, and before the (~~(justice))~~ judge shall proceed to enquire into the merits of the cause, either party may demand a jury to try the action, which jury shall be composed of six good and lawful persons having the qualifications of jurors in the superior court of the same county, unless the parties shall agree upon a lesser number: PROVIDED, That the party demanding the jury shall first pay to the (~~(justice))~~ clerk of the court the sum of one hundred twenty-five dollars, which shall be paid over by the (~~(justice))~~ clerk of the court to the county, and (~~(said))~~ such amount shall be taxed as costs against the losing party.

Sec. 14. RCW 12.40.020 and 1990 c 172 s 3 are each amended to read as follows:

A small claims action shall be commenced by the plaintiff filing a claim, in the form prescribed by RCW 12.40.050, in the small claims department. A filing fee of (~~(ten))~~ fourteen dollars plus any surcharge authorized by RCW 7.75.035 shall be paid when the claim is filed. Any party filing a counterclaim, cross-claim, or third-party claim in such action shall pay to the court a filing fee of fourteen dollars plus any surcharge authorized by RCW 7.75.035.

Sec. 15. RCW 26.12.240 and 1993 c 435 s 2 are each amended to read as follows:

A county may create a courthouse facilitator program to provide basic services to pro se litigants in family law cases. The legislative authority of any county may impose user fees or may impose a surcharge of up to (~~(ten))~~ twenty

dollars on only those superior court cases filed under Title 26 RCW, or both, to pay for the expenses of the courthouse facilitator program. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate account to be used as provided in this section.

Sec. 16. RCW 27.24.070 and 1992 c 54 s 6 are each amended to read as follows:

In each county pursuant to this chapter, the county treasurer shall deposit in the county or regional law library fund a sum equal to ~~((twelve))~~ seventeen dollars for every new probate or civil filing fee, including appeals and for every fee for filing a counterclaim, cross-claim, or third-party claim in any civil action, collected by the clerk of the superior court and ~~((six))~~ seven dollars for every fee collected for the commencement of a civil action and for the filing of a counterclaim, cross-claim, or third-party claim in any civil action in district court for the support of the law library in that county or the regional law library to which the county belongs: PROVIDED, That upon a showing of need the ~~((twelve))~~ seventeen dollar contribution may be increased up to ~~((fifteen))~~ twenty dollars or in counties with multiple library sites up to thirty dollars upon the request of the law library board of trustees and with the approval of the county legislative body or bodies.

Sec. 17. RCW 36.18.012 and 2001 c 146 s 1 are each amended to read as follows:

(1) Revenue collected under this section is subject to division with the state for deposit in the public safety and education account under RCW 36.18.025.

(2) The party filing a transcript or abstract of judgment or verdict from a United States court held in this state, or from the superior court of another county or from a district court in the county of issuance, shall pay at the time of filing a fee of ~~((fifteen))~~ twenty dollars.

(3) The clerk shall collect a fee of twenty dollars for: Filing a paper not related to or a part of a proceeding, civil or criminal, or a probate matter, required or permitted to be filed in the clerk's office for which no other charge is provided by law.

(4) If the defendant serves or files an answer to an unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the plaintiff shall pay before proceeding with the unlawful detainer action ~~((eighty))~~ one hundred twelve dollars.

(5) For a restrictive covenant for filing a petition to strike discriminatory provisions in real estate under RCW 49.60.227 a fee of twenty dollars must be charged.

(6) A fee of twenty dollars must be charged for filing a will only, when no probate of the will is contemplated.

(7) A fee of ~~((two))~~ twenty dollars must be charged for filing a petition, written agreement, or written memorandum in a nonjudicial probate dispute under RCW 11.96A.220, if it is filed within an existing case in the same court.

(8) A fee of thirty-five dollars must be charged for filing a petition regarding a common law lien under RCW 60.70.060.

(9) For certification of delinquent taxes by a county treasurer under RCW 84.64.190, a fee of five dollars must be charged.

(10) For the filing of a tax warrant for unpaid taxes or overpayment of benefits by any agency of the state of Washington, a fee of five dollars on or after July 22, 2001, and for the filing of such a tax warrant or overpayment of benefits on or after July 1, 2003, a fee of twenty dollars, of which forty-six percent of the first five dollars is directed to the public safety and education account established under RCW 43.08.250.

Sec. 18. RCW 36.18.016 and 2002 c 338 s 2 are each amended to read as follows:

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, a fee of ~~((twenty))~~ thirty-six dollars must be paid.

(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 ~~((fifty))~~ one hundred twenty-five dollars for a jury of six, or ~~((one))~~ two hundred fifty dollars for a jury of twelve may be imposed as costs under RCW 10.46.190.

(4) For preparing~~((, transcribing, or certifying))~~ a certified copy of an instrument on file or of record in the clerk's office, ((with or without seal,)) for the first page or portion of the first page, a fee of ~~((two))~~ 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 ~~((one))~~ 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.

~~((8))~~ (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 two dollars.

~~((9))~~ (10) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

~~((10))~~ (11) For clerk's services such as processing ex parte orders, performing historical searches, compiling statistical reports, and conducting

exceptional record searches, the clerk may collect a fee not to exceed twenty dollars per hour or portion of an hour.

~~((11))~~ (12) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape or other electronic storage medium.

~~((12) For the filing of oaths and affirmations under chapter 5.28 RCW, a fee of twenty dollars must be charged.)~~

~~(13) ((For filing a disclaimer of interest under RCW 11.86.031(4), a fee of two dollars must be charged.~~

~~(14))~~ For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of ~~((five))~~ twenty dollars must be charged.

~~((15))~~ (14) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars must be charged.

~~((16))~~ (15) A facilitator surcharge of ~~((ten))~~ up to twenty dollars must be charged as authorized under RCW 26.12.240.

~~((17))~~ (16) For filing a water rights statement under RCW 90.03.180, a fee of twenty-five dollars must be charged.

~~((18))~~ (17) For filing a claim of frivolous lien under RCW 60.04.081, a fee of thirty-five dollars must be charged.

(18) 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.

(19) A service fee of three 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.

~~((19))~~ (20) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

~~((20))~~ (21) 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.

~~((21))~~ (22) Investment service charge and earnings under RCW 36.48.090 must be charged.

~~((22))~~ (23) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

~~((23))~~ (24) 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.

~~((24))~~ (25) 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.

(26) For the filing of a will or codicil under the provisions of chapter 11.12 RCW, a fee of twenty dollars must be charged.

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 the effective date of this section, and no claim shall lie against the state for such benefits.

Sec. 19. RCW 36.18.020 and 2000 c 9 s 1 are each amended to read as follows:

(1) Revenue collected under this section is subject to division with the state public safety and education account under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) The party filing the first or initial paper in any civil action, including, but not limited to an action for restitution, adoption, or change of name, and any party filing a counterclaim, cross-claim, or third-party claim in any such civil action, shall pay, at the time the paper is filed, a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of ~~((thirty))~~ forty-five dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. The ~~((thirty))~~ forty-five dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(b) Any party, except a defendant in a criminal case, filing the first or initial paper on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the paper is filed, a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of ~~((one))~~ two hundred ~~((ten))~~ dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of ~~((forty one))~~ fifty-three dollars.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96A.220, there shall be paid a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars.

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: PROVIDED, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

NEW SECTION. Sec. 20. (1) The sum of two million three hundred thousand dollars, or as much thereof as may be necessary, is appropriated from the equal justice subaccount of the public safety and education account to the office of public defense for the fiscal biennium ending June 30, 2007, solely for the purpose of criminal indigent defense assistance and enhancement in the trial courts. Of this amount, one million dollars is provided solely for a criminal indigent defense pilot program for persons charged with felony or misdemeanor offenses. The pilot program shall include the following: Effective implementation of indigency screening; enhanced defense attorney practice standards; and use of investigative and expert services.

(2) The sum of five million dollars, or as much thereof as may be necessary, is appropriated from the equal justice subaccount of the public safety and education account to the office of public defense for the fiscal biennium ending June 30, 2007, solely for the purpose of representation of parents in dependency and termination proceedings.

(3) The sum of three million dollars, or as much thereof as may be necessary, is appropriated from the equal justice subaccount of the public safety and education account to the office of civil legal aid for the fiscal biennium ending June 30, 2007, solely for the purpose of civil legal representation of indigent persons.

(4) The sum of two million four hundred thousand dollars is appropriated from the equal justice subaccount of the public safety and education account to the administrator for the courts for the fiscal biennium ending June 30, 2007, solely for the purposes of district court judges' and elected municipal court judges' salary contributions.

Passed by the Senate April 24, 2005.

Passed by the House April 24, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 458

[Substitute House Bill 1934]

PROJECTILE STUN GUNS—ASSAULT OF A PEACE OFFICER—COMMITTEE

AN ACT Relating to assault of a peace officer with a projectile stun gun; amending RCW 9A.36.031 and 9A.04.110; reenacting and amending RCW 9.94A.515; creating a new section; and prescribing penalties.

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

Sec. 1. RCW 9A.36.031 and 1999 c 328 s 1 are each amended to read as follows:

(1) A person is guilty of assault in the third degree if he or she, under circumstances not amounting to assault in the first or second degree:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself or another person, assaults another; or

(b) Assaults a person employed as a transit operator or driver, the immediate supervisor of a transit operator or driver, a mechanic, or a security officer, by a public or private transit company or a contracted transit service provider, while that person is performing his or her official duties at the time of the assault; or

(c) Assaults a school bus driver, the immediate supervisor of a driver, a mechanic, or a security officer, employed by a school district transportation service or a private company under contract for transportation services with a school district, while the person is performing his or her official duties at the time of the assault; or

(d) With criminal negligence, causes bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm; or

(e) Assaults a fire fighter or other employee of a fire department, county fire marshal's office, county fire prevention bureau, or fire protection district who was performing his or her official duties at the time of the assault; or

(f) With criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering; or

(g) Assaults a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault; or

(h) Assaults a peace officer with a projectile stun gun; or

(i) Assaults a nurse, physician, or health care provider who was performing his or her nursing or health care duties at the time of the assault. For purposes of this subsection: "Nurse" means a person licensed under chapter 18.79 RCW; "physician" means a person licensed under chapter 18.57 or 18.71 RCW; and "health care provider" means a person certified under chapter 18.71 or 18.73 RCW who performs emergency medical services or a person regulated under Title 18 RCW and employed by, or contracting with, a hospital licensed under chapter 70.41 RCW.

(2) Assault in the third degree is a class C felony.

Sec. 2. RCW 9.94A.515 and 2004 c 176 s 2 and 2004 c 94 s 3 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)

- Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
- Rape 1 (RCW 9A.44.040)
- Rape of a Child 1 (RCW 9A.44.073)
- Trafficking 2 (RCW 9A.40.100(2))
- XI Manslaughter 1 (RCW 9A.32.060)
 - Rape 2 (RCW 9A.44.050)
 - Rape of a Child 2 (RCW 9A.44.076)
- X Child Molestation 1 (RCW 9A.44.083)
 - 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 Assault of a Child 2 (RCW 9A.36.130)
 - Explosive devices prohibited (RCW 70.74.180)
 - Hit and Run—Death (RCW 46.52.020(4)(a))
 - Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
 - Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
 - Malicious placement of an explosive 2 (RCW 70.74.270(2))
 - Robbery 1 (RCW 9A.56.200)
 - Sexual Exploitation (RCW 9.68A.040)
 - Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)

- Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
- Manslaughter 2 (RCW 9A.32.070)
- Promoting Prostitution 1 (RCW 9A.88.070)
- Theft of Ammonia (RCW 69.55.010)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW 9A.48.120)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
- Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))

- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- 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 1 (RCW 9A.42.060)
- 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 1 (RCW 9A.42.020)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)
- Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
- 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)

- Possession of a Stolen Firearm (RCW 9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Malicious Harassment (RCW 9A.36.080)

- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW 9A.82.050)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
- Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
- Unlawful transaction of insurance business (RCW 48.15.023(3))
- Unlicensed practice as an insurance professional (RCW 48.17.063(3))
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Abandonment of dependent person 2 (RCW 9A.42.070)
- 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)

Criminal Mistreatment 2 (RCW 9A.42.030)

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)

Patronizing a Juvenile Prostitute (RCW 9.68A.100)

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)

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)

Trafficking in Stolen Property 2 (RCW 9A.82.055)

- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful possession of firearm in the second degree (RCW 9A.41.040(2))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Computer Trespass 1 (RCW 9A.52.110)
 - Counterfeiting (RCW 9.16.035(3))
 - Escape from Community Custody (RCW 72.09.310)
 - 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)
 - Possession of Stolen Property 1 (RCW 9A.56.150)
 - Theft 1 (RCW 9A.56.030)
 - Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
 - Trafficking in Insurance Claims (RCW 48.30A.015)
 - Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
 - Unlawful Practice of Law (RCW 2.48.180)
 - Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)

- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))
- Transaction of insurance business beyond the scope of licensure (RCW 48.17.063(4))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Possession of Fictitious Identification (RCW 9A.56.320)
- Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)
- Unlawful Possession of Payment Instruments (RCW 9A.56.320)
- Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)
- Unlawful Production of Payment Instruments (RCW 9A.56.320)
- Unlawful Trafficking in Food Stamps (RCW 9.91.142)
- Unlawful Use of Food Stamps (RCW 9.91.144)

Vehicle Prowl 1 (RCW 9A.52.095)

Sec. 3. RCW 9A.04.110 and 1988 c 158 s 1 are each amended to read as follows:

In this title unless a different meaning plainly is required:

- (1) "Acted" includes, where relevant, omitted to act;
- (2) "Actor" includes, where relevant, a person failing to act;
- (3) "Benefit" is any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary;
- (4)(a) "Bodily injury," "physical injury," or "bodily harm" means physical pain or injury, illness, or an impairment of physical condition;
- (b) "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part;
- (c) "Great bodily harm" means bodily injury which creates a probability of death, or which causes significant serious permanent disfigurement, or which causes a significant permanent loss or impairment of the function of any bodily part or organ;
- (5) "Building", in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building;
- (6) "Deadly weapon" means any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article, or substance, including a "vehicle" as defined in this section, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or substantial bodily harm;
- (7) "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging;
- (8) "Government" includes any branch, subdivision, or agency of the government of this state and any county, city, district, or other local governmental unit;
- (9) "Governmental function" includes any activity which a public servant is legally authorized or permitted to undertake on behalf of a government;
- (10) "Indicted" and "indictment" include "informed against" and "information", and "informed against" and "information" include "indicted" and "indictment";
- (11) "Judge" includes every judicial officer authorized alone or with others, to hold or preside over a court;
- (12) "Malice" and "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty;

(13) "Officer" and "public officer" means a person holding office under a city, county, or state government, or the federal government who performs a public function and in so doing is vested with the exercise of some sovereign power of government, and includes all assistants, deputies, clerks, and employees of any public officer and all persons lawfully exercising or assuming to exercise any of the powers or functions of a public officer;

(14) "Omission" means a failure to act;

(15) "Peace officer" means a duly appointed city, county, or state law enforcement officer;

(16) "Pecuniary benefit" means any gain or advantage in the form of money, property, commercial interest, or anything else the primary significance of which is economic gain;

(17) "Person", "he", and "actor" include any natural person and, where relevant, a corporation, joint stock association, or an unincorporated association;

(18) "Place of work" includes but is not limited to all the lands and other real property of a farm or ranch in the case of an actor who owns, operates, or is employed to work on such a farm or ranch;

(19) "Prison" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including but not limited to any state correctional institution or any county or city jail;

(20) "Prisoner" includes any person held in custody under process of law, or under lawful arrest;

(21) "Projectile stun gun" means an electronic device that projects wired probes attached to the device that emit an electrical charge and that is designed and primarily employed to incapacitate a person or animal;

(22) "Property" means anything of value, whether tangible or intangible, real or personal;

~~((22))~~ (23) "Public servant" means any person other than a witness who presently occupies the position of or has been elected, appointed, or designated to become any officer or employee of government, including a legislator, judge, judicial officer, juror, and any person participating as an advisor, consultant, or otherwise in performing a governmental function;

~~((23))~~ (24) "Signature" includes any memorandum, mark, or sign made with intent to authenticate any instrument or writing, or the subscription of any person thereto;

~~((24))~~ (25) "Statute" means the Constitution or an act of the legislature or initiative or referendum of this state;

~~((25))~~ (26) "Threat" means to communicate, directly or indirectly the intent:

(a) To cause bodily injury in the future to the person threatened or to any other person; or

(b) To cause physical damage to the property of a person other than the actor; or

(c) To subject the person threatened or any other person to physical confinement or restraint; or

(d) To accuse any person of a crime or cause criminal charges to be instituted against any person; or

(e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

(f) To reveal any information sought to be concealed by the person threatened; or

(g) To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(h) To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or

(i) To bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

(j) To do any other act which is intended to harm substantially the person threatened or another with respect to his health, safety, business, financial condition, or personal relationships;

~~((26))~~ (27) "Vehicle" means a "motor vehicle" as defined in the vehicle and traffic laws, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail;

~~((27))~~ (28) Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular.

NEW SECTION. **Sec. 4.** (1) The projectile stun gun study committee is established to review the sale and use of projectile stun guns within Washington state. The committee shall be composed of:

(a) Two senators, one from each caucus in the senate;

(b) Two representatives, one from each caucus in the house of representatives;

(c) One police chief appointed by the Washington association of sheriffs and police chiefs;

(d) One elected sheriff appointed by the Washington association of sheriffs and police chiefs;

(e) One representative appointed by the association of Washington cities;

(f) One representative appointed by the Washington state association of counties; and

(g) One representative appointed by the department of health.

(2) The committee shall evaluate public safety issues created by projectile stun guns and make recommendations regarding whether they should be regulated and, if so, how. Specifically, the committee shall review:

(a) Public safety issues related to projectile stun guns when used by the general public;

(b) Ownership limitations, such as age and criminal record restrictions;

(c) The practicality of requiring criminal background checks prior to allowing the purchase of a projectile stun gun and who would perform such criminal background checks;

(d) Manufacturing requirements, such as voltage limits and whether to require that projectile stun guns disperse traceable coded materials;

(e) What use and possession limitations should be placed on projectile stun guns;

(f) Whether mandatory training should be required to purchase a projectile stun gun;

(g) What penalties shall be assessed to individuals that unlawfully sell, possess, or use projectile stun guns;

(h) The feelings of the general public about the use of projectile stun guns as an alternative to traditional firearms as means of self-protection; and

(i) Any other issue the committee finds relevant to the regulation of projectile stun guns in Washington.

(3) Staff support shall be provided by senate committee services and the office of program research.

(4) Legislative members of the study committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) A committee report, containing findings and proposed legislation, if any, shall be delivered to the full legislature, not later than December 31, 2005.

Passed by the House April 19, 2005.

Passed by the Senate April 13, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 459

[Substitute House Bill 1936]

PUBLIC EMPLOYEES RETIREMENT—EMERGENCY MEDICAL TECHNICIANS

AN ACT Relating to allowing members of the public employees' retirement system plans 1 and 2 employed as emergency medical technicians to transfer to the law enforcement officers' and fire fighters' retirement system plan 2; amending RCW 41.26.030 and 41.26.547; and providing an expiration date.

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

Sec. 1. RCW 41.26.030 and 2003 c 388 s 2 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the "Washington law enforcement officers' and fire fighters' retirement system" provided herein.

(2)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the fire fighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or fire fighters as defined in this chapter.

(b) "Employer" for plan 2 members, means the following entities to the extent that the entity employs any law enforcement officer and/or fire fighter:

(i) The legislative authority of any city, town, county, or district;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency; or

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996.

(3) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2)) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to plan 2 members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (3)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(4) "Fire fighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for fire fighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time fire fighter where the fire department does not have a civil service examination;

(c) Supervisory fire fighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (4)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (4)(e) shall not apply to plan 2 members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for fire fighter; ~~((and))~~

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW; and

(h) Any person who is employed on a full-time, fully compensated basis by an employer as an emergency medical technician.

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

(6) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

(7)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically handicapped as determined by the department, except a handicapped person in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(8) "Member" means any fire fighter, law enforcement officer, or other person as would apply under subsections (3) or (4) of this section whose membership is transferred to the Washington law enforcement officers' and fire fighters' retirement system on or after March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

(9) "Retirement fund" means the "Washington law enforcement officers' and fire fighters' retirement system fund" as provided for herein.

(10) "Employee" means any law enforcement officer or fire fighter as defined in subsections (3) and (4) of this section.

(11)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan 2 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12)(a) "Final average salary" for plan 1 members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(13)(a) "Basic salary" for plan 1 members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(14)(a) "Service" for plan 1 members, means all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a fire fighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service

credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(b) "Service" for plan 2 members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(15) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(16) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(17) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to

mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(18) "Disability board" for plan 1 members means either the county disability board or the city disability board established in RCW 41.26.110.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan 1 members.

(20) "Disability retirement" for plan 1 members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(21) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(22) "Medical services" for plan 1 members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopathic physician and surgeon licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic x-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(23) "Regular interest" means such rate as the director may determine.

(24) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

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

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

(27) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(28) "Plan 1" means the law enforcement officers' and fire fighters' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(29) "Plan 2" means the law enforcement officers' and fire fighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(30) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(31) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(32) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, and the state department of corrections.

Sec. 2. RCW 41.26.547 and 2003 c 293 s 1 are each amended to read as follows:

(1) A member of plan 2 who was a member of the public employees' retirement system while employed providing emergency medical services for a city, town, county, or district and whose job was relocated from another department of a city, town, county, or district to a fire department, or a member of the public employees' retirement system who is eligible for membership in plan 2 under RCW 41.26.030(4)(h), has the following options:

(a) Remain a member of the public employees' retirement system; or

(b) Leave any service credit earned as a member of the public employees' retirement system in the public employees' retirement system, and have all future

service earned in the law enforcement officers' and fire fighters' retirement system plan 2, becoming a dual member under the provisions of chapter 41.54 RCW; or

(c) Make an election no later than June 30, (~~(2008)~~) 2013, filed in writing with the department of retirement systems, to transfer service credit previously earned as an emergency medical technician for a city, town, county, or district in the public employees' retirement system plan 1 or plan 2 to the law enforcement officers' and fire fighters' retirement system plan 2 as defined in RCW 41.26.030. Service credit that a member elects to transfer from the public employees' retirement system to the law enforcement officers' and fire fighters' retirement system under this section shall be transferred no earlier than five years after the effective date the member elects to transfer, and only after the member earns five years of service credit as a fire fighter following the effective date the member elects to transfer.

(2) A member of plan 1 who was a member of the public employees' retirement system while employed providing emergency medical services for a city, town, county, or district and whose job was relocated from another department of a city, town, county, or district to a fire department has the following options:

(a) Remain a member of the public employees' retirement system; or

(b) Leave any service credit earned as a member of the public employees' retirement system in the public employees' retirement system, and have all future service earned in the law enforcement officers' and fire fighters' retirement system plan 1.

(3)(a) A member who elects to transfer service credit under subsection (1)(c) of this section shall make the payments required by this subsection prior to having service credit earned as an emergency medical technician for a city, town, county, or district under the public employees' retirement system plan 1 or plan 2 transferred to the law enforcement officers' and fire fighters' retirement system plan 2. However, in no event shall service credit be transferred earlier than five years after the effective date the member elects to transfer, or prior to the member earning five years of service credit as a fire fighter following the effective date the member elects to transfer.

(b) A member who elects to transfer service credit under this subsection shall pay, for the applicable period of service, the difference between the contributions the employee paid to the public employees' retirement system plan 1 or plan 2 and the contributions that would have been paid by the employee had the employee been a member of the law enforcement officers' and fire fighters' retirement system plan 2, plus interest on this difference as determined by the director. This payment must be made no later than five years from the effective date of the election made under subsection (1)(c) of this section and must be made prior to retirement.

(c) For a period of service transferred by a member eligible for membership in plan 2 under RCW 41.26.030(4)(h), the employer shall pay an amount sufficient to ensure that the contribution level to the law enforcement officers' and fire fighters' retirement system will not increase due to this transfer. This payment must be made within five years of the completion of the employee payment in (b) of this subsection.

(d) No earlier than five years after the effective date the member elects to transfer service credit under this section and upon completion of the payment required in (b) of this subsection, the department shall transfer from the public employees' retirement system plan 1 or plan 2 to the law enforcement officers' and fire fighters' retirement system plan 2: (i) All of the employee's applicable accumulated contributions plus interest and an equal amount of employer contributions; and (ii) all applicable months of service, as defined in RCW 41.26.030(14)(b), credited to the employee under this chapter for service as an emergency services provider for a city, town, county, or district as though that service was rendered as a member of the law enforcement officers' and fire fighters' retirement system plan 2.

~~((4))~~ (e) Upon transfer of service credit, contributions, and interest under this subsection, the employee is permanently excluded from membership in the public employees' retirement system for all service transfers related to their time served as an emergency medical technician for a city, town, county, or district under the public employees' retirement system plan 1 or plan 2.

NEW SECTION. **Sec. 3.** This act expires July 1, 2013.

Passed by the House March 11, 2005.

Passed by the Senate April 15, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 460

[Engrossed Second Substitute House Bill 2015]

DRUG OFFENDER SENTENCING ALTERNATIVE

AN ACT Relating to judicially supervised substance abuse treatment; reenacting and amending RCW 9.94A.660; creating a new section; and providing an effective date.

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

Sec. 1. RCW 9.94A.660 and 2002 c 290 s 20 and 2002 c 175 s 10 are each reenacted and amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(c) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance; ~~((and))~~

(d) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(e) The standard sentence range for the current offense is greater than one year; and

(f) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a sentence under this section may be made by the court, the offender, or the state. If ~~((the standard sentence range is greater than one year and))~~ the sentencing court determines that the offender is eligible for this alternative ~~((and that))~~, the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:

(a) Whether the offender suffers from drug addiction;

(b) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

(c) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and

(d) Whether the offender and the community will benefit from the use of the alternative ~~((, the judge may))~~.

(3) The examination report must contain:

(a) Information on the issues required to be addressed in subsection (2) of this section; and

(b) A proposed treatment plan that must, at a minimum, contain:

(i) A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;

(ii) The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;

(iii) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

(iv) Recommended crime-related prohibitions and affirmative conditions.

(4) After receipt of the examination report, if the court determines that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence ~~((that must include))~~ consisting of either a prison-based alternative under subsection (5) of this section or a residential chemical dependency treatment-based alternative under subsection (6) of this section. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(5) The prison-based alternative shall include:

(a) A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections~~((:))~~;

~~((The court shall also impose:~~

~~((a))~~ (b) The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;

~~((b))~~ (c) Crime-related prohibitions including a condition not to use illegal controlled substances;

~~((c))~~ (d) A requirement to submit to urinalysis or other testing to monitor that status; and

~~((d))~~ (e) A term of community custody pursuant to RCW 9.94A.715 to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

(6) The residential chemical dependency treatment-based alternative shall include:

(a) A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under subsection (3)(b) of this section. The department may impose conditions and sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7), 9.94A.737, and 9.94A.740. The court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

(b) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:

(i) Authorize the department to terminate the offender's community custody status on the expiration date determined under (a) of this subsection; or

(ii) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(iii) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.715;

(c) If the court imposes a term of total confinement under (b)(iii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

(7) If the court imposes a sentence under this section, the court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court ~~((shall))~~ may impose ~~((three or more))~~ any of the following conditions:

~~((i))~~ (a) Devote time to a specific employment or training;

~~((ii))~~ (b) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;

~~((iii))~~ (c) Report as directed to a community corrections officer;

~~((iv))~~ (d) Pay all court-ordered legal financial obligations;

~~((v))~~ (e) Perform community restitution work;

~~((vi))~~ (f) Stay out of areas designated by the sentencing court;

~~((vii))~~ (g) Such other conditions as the court may require such as affirmative conditions.

~~((3))~~ (8)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the terms of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

(9) If ~~((the))~~ an offender ~~((violates any of the sentence conditions in subsection (2) of this section or))~~ sentenced to the prison-based alternative under subsection (5) of this section is found by the United States attorney general to be subject to a deportation order, a ~~((violation))~~ hearing shall be held by the department unless waived by the offender~~((:~~

~~((a) If the department finds that conditions have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence.~~

~~((b)), and,~~ if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

~~((4) The department shall determine the rules for calculating the value of a day fine based on the offender's income and reasonable obligations which the offender has for the support of the offender and any dependents. These rules shall be developed in consultation with the administrator for the courts, the office of financial management, and the commission.~~

~~((5))~~ (10) An offender ~~((who fails to complete the special drug offender sentencing alternative program or who is administratively terminated from the~~

~~program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court and)) sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement. ((An offender who violates any conditions of supervision as defined by the department shall be sanctioned. Sanctions may include, but are not limited to, reclassifying the offender to serve the unexpired term of his or her sentence as ordered by the sentencing court. If an offender is reclassified to serve the unexpired term of his or her sentence, the offender shall be subject to all rules relating to earned release time.))~~

(1) Costs of examinations and preparing treatment plans under subsections (2) and (3) of this section may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.

NEW SECTION. Sec. 2. This act applies to sentences imposed on or after the effective date of this act.

NEW SECTION. Sec. 3. This act takes effect October 1, 2005.

Passed by the House April 19, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 461

[Second Substitute House Bill 2212]

EDUCATOR CERTIFICATION

AN ACT Relating to educator certification; amending RCW 28A.410.090; and adding a new section to chapter 28A.415 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28A.415 RCW to read as follows:

(1) All credits earned in furtherance of degrees earned by certificated staff, that are used to increase earnings on the salary schedule consistent with RCW 28A.415.023, must be obtained from an educational institution accredited by an accrediting association recognized by rule of the state board of education.

(2) The office of the superintendent of public instruction shall verify for school districts the accreditation status of educational institutions granting degrees that are used by certificated staff to increase earnings on the salary schedule consistent with RCW 28A.415.023.

(3) The office of the superintendent of public instruction shall provide school districts with training and additional resources to ensure they can verify that degrees earned by certificated staff, that are used to increase earnings on the salary schedule consistent with RCW 28A.415.023, are obtained from an educational institution accredited by an accrediting association recognized by rule of the state board of education.

(4)(a) No school district may submit degree information before there has been verification of accreditation under subsection (3) of this section.

(b) Certificated staff who submit degrees received from an unaccredited educational institution for the purposes of receiving a salary increase shall be

fined three hundred dollars. The fine shall be paid to the office of the superintendent of public instruction and used for costs of administering this section.

(c) In addition to the fine in (b) of this subsection, certificated staff who receive salary increases based upon degrees earned from educational institutions that have been verified to be unaccredited must reimburse the district for any compensation received based on these degrees.

Sec. 2. RCW 28A.410.090 and 2004 c 134 s 2 are each amended to read as follows:

(1) Any certificate or permit authorized under the provisions of this chapter, chapter 28A.405 RCW, or rules promulgated thereunder may be revoked or suspended by the authority authorized to grant the same based upon a criminal records report authorized by law, or upon the complaint of any school district superintendent, educational service district superintendent, or private school administrator for immorality, violation of written contract, unprofessional conduct, intemperance, or crime against the law of the state.

If the superintendent of public instruction has reasonable cause to believe that an alleged violation of this chapter or rules adopted under it has occurred based on a written complaint alleging physical abuse or sexual misconduct by a certificated school employee filed by a parent or another person, but no complaint has been forwarded to the superintendent by a school district superintendent, educational service district superintendent, or private school administrator, and that a school district superintendent, educational service district superintendent, or private school administrator has sufficient notice of the alleged violation and opportunity to file a complaint, the superintendent of public instruction may cause an investigation to be made of the alleged violation, together with such other matters that may be disclosed in the course of the investigation related to certificated personnel.

(2) A parent or another person may file a written complaint with the superintendent of public instruction alleging physical abuse or sexual misconduct by a certificated school employee if:

(a) The parent or other person has already filed a written complaint with the educational service district superintendent concerning that employee;

(b) The educational service district superintendent has not caused an investigation of the allegations and has not forwarded the complaint to the superintendent of public instruction for investigation; and

(c) The written complaint states the grounds and factual basis upon which the parent or other person believes an investigation should be conducted.

(3) Any such certificate or permit authorized under this chapter or chapter 28A.405 RCW shall be revoked by the authority authorized to grant the certificate upon a guilty plea or the conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. The person whose certificate is in question shall be given an opportunity to be heard. Mandatory permanent revocation upon a

guilty plea or the conviction of felony crimes specified under this subsection shall apply to such convictions or guilty pleas which occur after July 23, 1989. Revocation of any certificate or permit authorized under this chapter or chapter 28A.405 RCW for a guilty plea or criminal conviction occurring prior to July 23, 1989, shall be subject to the provisions of subsection (1) of this section.

(4)(a) Any such certificate or permit authorized under this chapter or chapter 28A.405 RCW shall be suspended or revoked, according to the provisions of this subsection, by the authority authorized to grant the certificate upon a finding that an employee has engaged in an unauthorized use of school equipment to intentionally access material depicting sexually explicit conduct or has intentionally possessed on school grounds any material depicting sexually explicit conduct; except for material used in conjunction with established curriculum. A first time violation of this subsection shall result in either suspension or revocation of the employee's certificate or permit as determined by the office of the superintendent of public instruction. A second violation shall result in a mandatory revocation of the certificate or permit.

(b) In all cases under this subsection (4), the person whose certificate is in question shall be given an opportunity to be heard and has the right to appeal as established in RCW 28A.410.100. Certificates or permits shall be suspended or revoked under this subsection only if findings are made on or after the effective date of this section. For the purposes of this subsection, "sexually explicit conduct" has the same definition as provided in RCW 9.68A.011.

Passed by the House April 19, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 462

[Substitute Senate Bill 5841]

ASTHMA

AN ACT Relating to the prevention, diagnosis, and treatment of asthma; amending RCW 41.05.013; adding a new section to chapter 28A.210 RCW; adding a new section to chapter 43.70 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) Asthma is a dangerous disease that is growing in prevalence in Washington state. An estimated five hundred thousand residents of the state suffer from asthma. Since 1995, asthma has claimed more than five hundred lives, caused more than twenty-five thousand hospitalizations with costs of more than one hundred twelve million dollars, and resulted in seven million five hundred thousand missed school days. School nurses have identified over four thousand children with life-threatening asthma in the state's schools.

(2) While asthma is found among all populations, its prevalence disproportionately affects low-income and minority populations. Untreated asthma affects worker productivity and results in unnecessary absences from work. In many cases, asthma triggers present in substandard housing and poorly ventilated workplaces contribute directly to asthma.

(3) Although research continues into the causes and cures for asthma, national consensus has been reached on treatment guidelines. People with asthma who are being treated in accordance with these guidelines are far more likely to control the disease than those who are not being treated and therefore are less likely to experience debilitating or life-threatening asthma episodes, less likely to be hospitalized, and less likely to need to curtail normal school or work activities. With treatment, most people with asthma are able to live normal, active lives.

(4) Up to one-third of the people with asthma have not had their disease diagnosed. Among those with diagnosed asthma, thirty to fifty percent are not receiving medicines that are needed to control the disease, and approximately eighty percent of diagnosed asthmatics are not getting yearly spirometry measurements that are a key element in monitoring the disease.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.210 RCW to read as follows:

(1) The superintendent of public instruction and the secretary of the department of health shall develop a uniform policy for all school districts providing for the in-service training for school staff on symptoms, treatment, and monitoring of students with asthma and on the additional observations that may be needed in different situations that may arise during the school day and during school-sponsored events. The policy shall include the standards and skills that must be in place for in-service training of school staff.

(2) All school districts shall adopt policies regarding asthma rescue procedures for each school within the district.

(3) All school districts must require that each public elementary school and secondary school grant to any student in the school authorization for the self-administration of medication to treat that student's asthma or anaphylaxis, if:

(a) A health care practitioner prescribed the medication for use by the student during school hours and instructed the student in the correct and responsible use of the medication;

(b) The student has demonstrated to the health care practitioner, or the practitioner's designee, and a professional registered nurse at the school, the skill level necessary to use the medication and any device that is necessary to administer the medication as prescribed;

(c) The health care practitioner formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours; and

(d) The student's parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan formulated under (c) of this subsection and other documents related to liability.

(4) An authorization granted under subsection (3) of this section must allow the student involved to possess and use his or her medication:

(a) While in school;

(b) While at a school-sponsored activity, such as a sporting event; and

(c) In transit to or from school or school-sponsored activities.

(5) An authorization granted under subsection (3) of this section:

(a) Must be effective only for the same school and school year for which it is granted; and

(b) Must be renewed by the parent or guardian each subsequent school year in accordance with this subsection.

(6) School districts must require that backup medication, if provided by a student's parent or guardian, be kept at a student's school in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

(7) School districts must require that information described in subsection (3)(c) and (d) of this section be kept on file at the student's school in a location easily accessible in the event of an asthma or anaphylaxis emergency.

(8) Nothing in this section creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

Sec. 3. RCW 41.05.013 and 2003 c 276 s 1 are each amended to read as follows:

(1) The authority shall coordinate state agency efforts to develop and implement uniform policies across state purchased health care programs that will ensure prudent, cost-effective health services purchasing, maximize efficiencies in administration of state purchased health care programs, improve the quality of care provided through state purchased health care programs, and reduce administrative burdens on health care providers participating in state purchased health care programs. The policies adopted should be based, to the extent possible, upon the best available scientific and medical evidence and shall endeavor to address:

(a) Methods of formal assessment, such as health technology assessment. Consideration of the best available scientific evidence does not preclude consideration of experimental or investigational treatment or services under a clinical investigation approved by an institutional review board;

(b) Monitoring of health outcomes, adverse events, quality, and cost-effectiveness of health services;

(c) Development of a common definition of medical necessity; and

(d) Exploration of common strategies for disease management and demand management programs, including asthma, diabetes, heart disease, and similar common chronic diseases. Strategies to be explored include individual asthma management plans. On January 1, 2007, and January 1, 2009, the authority shall issue a status report to the legislature summarizing any results it attains in exploring and coordinating strategies for asthma, diabetes, heart disease, and other chronic diseases.

(2) The administrator may invite health care provider organizations, carriers, other health care purchasers, and consumers to participate in efforts undertaken under this section.

(3) For the purposes of this section "best available scientific and medical evidence" means the best available external clinical evidence derived from systematic research.

NEW SECTION. Sec. 4. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department, in collaboration with its public and private partners, shall design a state asthma plan, based on clinically sound criteria including nationally recognized guidelines such as those established by the national

asthma education prevention partnership expert panel report guidelines for the diagnosis and management of asthma.

(2) The plan shall include recommended recommendations in the following areas:

(a) Evidence-based processes for the prevention and management of asthma;

(b) Data systems that support asthma prevalence reporting, including population disparities and practice variation in the treatment of asthma;

(c) Quality improvement strategies addressing the successful diagnosis and management of the disease; and

(d) Cost estimates and sources of funding for plan implementation.

(3) The department shall submit the completed state plan to the governor and the legislature by December 1, 2005. After the initial state plan is submitted, the department shall provide progress reports to the governor and the legislature on a biennial basis beginning December 1, 2007.

(4) The department shall implement the state plan recommendations made under subsection (2) of this section only to the extent that federal, state, or private funds, including grants, are available for that purpose.

Passed by the Senate April 19, 2005.

Passed by the House April 6, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 463

[Substitute Senate Bill 5708]

EPINEPHRINE—EMERGENCY MEDICAL TECHNICIANS

AN ACT Relating to the administration of epinephrine by emergency medical technicians; and amending RCW 18.73.250.

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

Sec. 1. RCW 18.73.250 and 2001 c 24 s 1 are each amended to read as follows:

(1) All of the state's ambulance and aid services shall make epinephrine available to their emergency medical technicians in their emergency care supplies. The emergency medical technician may administer epinephrine ~~((to a patient of any age upon the presentation of evidence of a prescription for epinephrine or to a patient under eighteen years of age:~~

~~(a) Upon the request of the patient or his or her parent or guardian; or~~

~~(b) Upon the request of a person who presents written authorization from the patient or his or her parent or guardian making such a request)).~~

(2) ~~((Any emergency medical technician, emergency medical service, or medical program director acting in good faith and in compliance with the provisions of this section shall not be liable for any civil damages arising out of the furnishing or administration of epinephrine.~~

~~(3))~~ Nothing in this section authorizes the administration of epinephrine by a first responder.

Passed by the Senate March 9, 2005.

Passed by the House April 19, 2005.

Approved by the Governor May 13, 2005.
Filed in Office of Secretary of State May 13, 2005.

CHAPTER 464

[Engrossed Substitute Senate Bill 5699]

AQUATIC INVASIVE SPECIES

AN ACT Relating to preventing and controlling aquatic invasive species and algae; amending RCW 88.02.050; adding a new section to chapter 77.12 RCW; adding a new section to chapter 43.21A RCW; adding a new section to chapter 43.43 RCW; 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 finds that aquatic invasive species and freshwater aquatic algae are causing economic, environmental, and public health problems that affect the citizens and aquatic resources of our state. Many highly destructive species, such as the zebra mussel, are currently not found in Washington's waters and efforts should be made to prevent the introduction or spread of these aquatic invasive species into our state waters. Preventing new introductions is significantly less expensive and causes far less ecological damage than trying to control new infestations.

The legislature also finds that freshwater algae, particularly blue-green algae, are also seriously degrading the water quality and recreational value of a number of our lakes. Blue-green algae can produce toxins that inhibit recreational uses and pose a threat to humans and pets.

It is therefore the intent of the legislature to clarify the roles of the different state agencies involved in these issues in order to address the threat of aquatic invasive species and the problem caused by aquatic freshwater algae, and to provide a dedicated fund source to prevent and control further impacts.

Sec. 2. RCW 88.02.050 and 2002 c 286 s 13 are each amended to read as follows:

(1) Application for a vessel registration shall be made to the department or its authorized agent in the manner and upon forms prescribed by the department. The application shall state the name and address of each owner of the vessel and such other information as may be required by the department, shall be signed by at least one owner, and shall be accompanied by a vessel registration fee of ten dollars and fifty cents per year and the excise tax imposed under chapter 82.49 RCW. ~~((In addition, two))~~

(2) Five additional dollars must be collected annually from every vessel registration application. These moneys must be distributed in the following manner:

(a) Two dollars must be deposited into the derelict vessel removal account established in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account reaches one million dollars as of March 1st of any year, the collection of the two-dollar fee must be suspended for the following fiscal year.

(b) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in section 3 of this act.

(c) One dollar must be deposited into the freshwater aquatic algae control account created in section 4 of this act.

(d) Fifty cents must be deposited into the aquatic invasive species enforcement account created in section 5 of this act.

(3) Any fees required for licensing agents under RCW 46.01.140 shall be in addition to the ten dollar and fifty cent annual registration fee and the ~~((two-dollar derelict vessel))~~ five-dollar fee created in subsection (2) of this section.

(4) Upon receipt of the application and the registration fee, the department shall assign a registration number and issue a decal for each vessel. The registration number and decal shall be issued and affixed to the vessel in a manner prescribed by the department consistent with the standard numbering system for vessels set forth in volume 33, part 174, of the code of federal regulations. A valid decal affixed as prescribed shall indicate compliance with the annual registration requirements of this chapter.

(5) The vessel registrations and decals are valid for a period of one year, except that the director of licensing may extend or diminish vessel registration periods, and the decals therefor, for the purpose of staggered renewal periods. For registration periods of more or less than one year, the department may collect prorated annual registration fees and excise taxes based upon the number of months in the registration period. Vessel registrations are renewable every year in a manner prescribed by the department upon payment of the vessel registration fee, excise tax, and the derelict vessel fee. Upon renewing a vessel registration, the department shall issue a new decal to be affixed as prescribed by the department.

(6) When the department issues either a notice to renew a vessel registration or a decal for a new or renewed vessel registration, it shall also provide information on the location of marine oil recycling tanks and sewage holding tank pumping stations. This information will be provided to the department by the state parks and recreation commission in a form ready for distribution. The form will be developed and prepared by the state parks and recreation commission with the cooperation of the department of ecology. The department, the state parks and recreation commission, and the department of ecology shall enter into a memorandum of agreement to implement this process.

(7) A person acquiring a vessel from a dealer or a vessel already validly registered under this chapter shall, within fifteen days of the acquisition or purchase of the vessel, apply to the department or its authorized agent for transfer of the vessel registration, and the application shall be accompanied by a transfer fee of one dollar.

NEW SECTION. Sec. 3. A new section is added to chapter 77.12 RCW to read as follows:

(1) The aquatic invasive species prevention account is created in the state treasury. Moneys directed to the account from RCW 88.02.050 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the aquatic invasive species prevention account may be appropriated to the department to develop an aquatic invasive species prevention program for recreational watercraft. Funds must be expended as follows:

(a) To inspect watercraft, watercraft trailers, and outboard motors at selected boat launching sites;

(b) To educate general law enforcement officers on how to enforce state laws relating to preventing the spread of aquatic invasive species;

(c) To evaluate and survey the risk posed by marine recreational watercraft in spreading aquatic invasive species into Washington state waters;

(d) To evaluate the risk posed by float planes in spreading aquatic invasive species into Washington state waters; and

(e) To implement an aquatic invasive species early detection and rapid response plan.

(3) The department shall provide training to Washington state patrol employees working at port of entry weigh stations on how to inspect recreational watercraft for the presence of zebra mussels and other aquatic invasive species. The department shall also cooperatively work with the Washington state patrol to set up random check stations to inspect watercraft at areas of high boating activity.

(4) The department shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of this act. The first report is due December 1, 2007.

NEW SECTION. Sec. 4. A new section is added to chapter 43.21A RCW to read as follows:

(1) The freshwater aquatic algae control account is created in the state treasury. Moneys directed to the account from RCW 88.02.050 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the freshwater aquatic algae control account may be appropriated to the department to develop a freshwater aquatic algae control program. Funds must be expended as follows:

(a) As grants to cities, counties, tribes, special purpose districts, and state agencies to manage excessive freshwater algae, with priority for the treatment of lakes in which harmful algal blooms have occurred within the past three years; and

(b) To provide technical assistance to applicants and the public about aquatic algae control.

(3) The department shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of this act. The first report is due December 1, 2007.

NEW SECTION. Sec. 5. A new section is added to chapter 43.43 RCW to read as follows:

(1) The aquatic invasive species enforcement account is created in the state treasury. Moneys directed to the account from RCW 88.02.050 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the aquatic invasive species enforcement account may be appropriated to the Washington state patrol to develop an aquatic invasive

species enforcement program for recreational watercraft. Funds must be expended as follows:

(a) To inspect recreational watercraft that are required to stop at port of entry weigh stations managed by the Washington state patrol. The watercraft must be inspected for the presence of zebra mussels and other aquatic invasive species; and

(b) To establish random check stations, in conjunction with the department of fish and wildlife, to inspect watercraft in areas of high boating activity.

(3) The Washington state patrol shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of this act. The first report is due December 1, 2007.

NEW SECTION. Sec. 6. Section 2 of this act applies to vessel registration fees that are due or become due on or after August 1, 2005.

NEW SECTION. Sec. 7. Section 2 of this act expires June 30, 2012.

Passed by the Senate April 19, 2005.

Passed by the House April 7, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 465

[Engrossed Senate Bill 5049]

LANDLORD-TENANT ACT—MOLD INFORMATION

AN ACT Relating to disclosing information about mold in residential dwelling units; amending RCW 59.18.060; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that residents of the state face preventable exposures to mold in their homes, apartments, and schools. Exposure to mold, and the toxins they produce, have been found to have adverse health effects, including loss of memory and impairment of the ability to think coherently and function in a job, and may cause fatigue, nausea, and headaches.

As steps can be taken by landlords and tenants to minimize exposure to indoor mold, and as the reduction of exposure to mold in buildings could reduce the rising number of mold-related claims submitted to insurance companies and increase the availability of coverage, the legislature supports providing tenants and landlords with information designed to minimize the public's exposure to mold.

Sec. 2. RCW 59.18.060 and 2002 c 259 s 1 are each amended to read as follows:

The landlord will at all times during the tenancy keep the premises fit for human habitation, and shall in particular:

(1) Maintain the premises to substantially comply with any applicable code, statute, ordinance, or regulation governing their maintenance or operation, which the legislative body enacting the applicable code, statute, ordinance or regulation could enforce as to the premises rented if such condition substantially endangers or impairs the health or safety of the tenant;

(2) Maintain the roofs, floors, walls, chimneys, fireplaces, foundations, and all other structural components in reasonably good repair so as to be usable and capable of resisting any and all normal forces and loads to which they may be subjected;

(3) Keep any shared or common areas reasonably clean, sanitary, and safe from defects increasing the hazards of fire or accident;

(4) Provide a reasonable program for the control of infestation by insects, rodents, and other pests at the initiation of the tenancy and, except in the case of a single family residence, control infestation during tenancy except where such infestation is caused by the tenant;

(5) Except where the condition is attributable to normal wear and tear, make repairs and arrangements necessary to put and keep the premises in as good condition as it by law or rental agreement should have been, at the commencement of the tenancy;

(6) Provide reasonably adequate locks and furnish keys to the tenant;

(7) Maintain all electrical, plumbing, heating, and other facilities and appliances supplied by him in reasonably good working order;

(8) Maintain the dwelling unit in reasonably weathertight condition;

(9) Except in the case of a single family residence, provide and maintain appropriate receptacles in common areas for the removal of ashes, rubbish, and garbage, incidental to the occupancy and arrange for the reasonable and regular removal of such waste;

(10) Except where the building is not equipped for the purpose, provide facilities adequate to supply heat and water and hot water as reasonably required by the tenant;

(11)(a) Provide a written notice to all tenants disclosing fire safety and protection information. The landlord or his or her authorized agent must provide a written notice to the tenant that the dwelling unit is equipped with a smoke detection device as required in RCW 48.48.140. The notice shall inform the tenant of the tenant's responsibility to maintain the smoke detection device in proper operating condition and of penalties for failure to comply with the provisions of RCW 48.48.140(3). The notice must be signed by the landlord or the landlord's authorized agent and tenant with copies provided to both parties. Further, except with respect to a single-family residence, the written notice must also disclose the following:

(i) Whether the smoke detection device is hard-wired or battery operated;

(ii) Whether the building has a fire sprinkler system;

(iii) Whether the building has a fire alarm system;

(iv) Whether the building has a smoking policy, and what that policy is;

(v) Whether the building has an emergency notification plan for the occupants and, if so, provide a copy to the occupants;

(vi) Whether the building has an emergency relocation plan for the occupants and, if so, provide a copy to the occupants; and

(vii) Whether the building has an emergency evacuation plan for the occupants and, if so, provide a copy to the occupants.

(b) The information required under this subsection may be provided to a tenant in a multifamily residential building either as a written notice or as a checklist that discloses whether the building has fire safety and protection

devices and systems. The checklist shall include a diagram showing the emergency evacuation routes for the occupants.

(c) The written notice or checklist must be provided to new tenants at the time the lease or rental agreement is signed, and must be provided to current tenants as soon as possible, but not later than January 1, 2004; ~~((and))~~

(12) Provide tenants with information provided or approved by the department of health about the health hazards associated with exposure to indoor mold. Information may be provided in written format individually to each tenant, or may be posted in a visible, public location at the dwelling unit property. The information must detail how tenants can control mold growth in their dwelling units to minimize the health risks associated with indoor mold. Landlords may obtain the information from the department's web site or, if requested by the landlord, the department must mail the information to the landlord in a printed format. When developing or changing the information, the department of health must include representatives of landlords in the development process. The information must be provided by the landlord to new tenants at the time the lease or rental agreement is signed, and must be provided to current tenants no later than January 1, 2006, or must be posted in a visible, public location at the dwelling unit property beginning the effective date of this act;

(13) The landlord and his or her agents and employees are immune from civil liability for failure to comply with subsection (12) of this section except where the landlord and his or her agents and employees knowingly and intentionally do not comply with subsection (12) of this section; and

(14) Designate to the tenant the name and address of the person who is the landlord by a statement on the rental agreement or by a notice conspicuously posted on the premises. The tenant shall be notified immediately of any changes by certified mail or by an updated posting. If the person designated in this section does not reside in the state where the premises are located, there shall also be designated a person who resides in the county who is authorized to act as an agent for the purposes of service of notices and process, and if no designation is made of a person to act as agent, then the person to whom rental payments are to be made shall be considered such agent;

No duty shall devolve upon the landlord to repair a defective condition under this section, nor shall any defense or remedy be available to the tenant under this chapter, where the defective condition complained of was caused by the conduct of such tenant, his family, invitee, or other person acting under his control, or where a tenant unreasonably fails to allow the landlord access to the property for purposes of repair. When the duty imposed by subsection (1) of this section is incompatible with and greater than the duty imposed by any other provisions of this section, the landlord's duty shall be determined pursuant to subsection (1) of this section.

Passed by the Senate April 19, 2005.

Passed by the House April 5, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 466

[Engrossed Senate Bill 5094]

CONSERVATION DISTRICTS—SPECIAL ASSESSMENTS

AN ACT Relating to special assessments for conservation district activities and programs; and amending RCW 89.08.400.

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

Sec. 1. RCW 89.08.400 and 1992 c 70 s 1 are each amended to read as follows:

(1) Special assessments are authorized to be imposed for conservation districts as provided in this section. Activities and programs to conserve natural resources, including soil and water, are declared to be of special benefit to lands and may be used as the basis upon which special assessments are imposed.

(2) Special assessments to finance the activities of a conservation district may be imposed by the county legislative authority of the county in which the conservation district is located for a period or periods each not to exceed ten years in duration.

The supervisors of a conservation district shall hold a public hearing on a proposed system of assessments prior to the first day of August in the year prior to which it is proposed that the initial special assessments be collected. At that public hearing, the supervisors shall gather information and shall alter the proposed system of assessments when appropriate, including the number of years during which it is proposed that the special assessments be imposed.

On or before the first day of August in that year, the supervisors of a conservation district shall file the proposed system of assessments, indicating the years during which it is proposed that the special assessments shall be imposed, and a proposed budget for the succeeding year with the county legislative authority of the county within which the conservation district is located. The county legislative authority shall hold a public hearing on the proposed system of assessments. After the hearing, the county legislative authority may accept, or modify and accept, the proposed system of assessments, including the number of years during which the special assessments shall be imposed, if it finds that both the public interest will be served by the imposition of the special assessments and that the special assessments to be imposed on any land will not exceed the special benefit that the land receives or will receive from the activities of the conservation district. The findings of the county legislative authority shall be final and conclusive. Special assessments may be altered during this period on individual parcels in accordance with the system of assessments if land is divided or land uses or other factors change.

Notice of the public hearings held by the supervisors and the county legislative authority shall be posted conspicuously in at least five places throughout the conservation district, and published once a week for two consecutive weeks in a newspaper in general circulation throughout the conservation district, with the date of the last publication at least five days prior to the public hearing.

(3) A system of assessments shall classify lands in the conservation district into suitable classifications according to benefits conferred or to be conferred by the activities of the conservation district, determine an annual per acre rate of assessment for each classification of land, and indicate the total amount of

special assessments proposed to be obtained from each classification of lands. Lands deemed not to receive benefit from the activities of the conservation district shall be placed into a separate classification and shall not be subject to the special assessments. An annual assessment rate shall be stated as either uniform annual per acre amount, or an annual flat rate per parcel plus a uniform annual rate per acre amount, for each classification of land. The maximum annual per acre special assessment rate shall not exceed ten cents per acre. The maximum annual per parcel rate shall not exceed five dollars, except that for counties with a population of over one million five hundred thousand persons, the maximum annual per parcel rate shall not exceed ten dollars.

Public land, including lands owned or held by the state, shall be subject to special assessments to the same extent as privately owned lands. The procedures provided in chapter 79.44 RCW shall be followed if lands owned or held by the state are subject to the special assessments of a conservation district.

Forest lands used solely for the planting, growing, or harvesting of trees may be subject to special assessments if such lands benefit from the activities of the conservation district, but the per acre rate of special assessment on benefited forest lands shall not exceed one-tenth of the weighted average per acre assessment on all other lands within the conservation district that are subject to its special assessments. The calculation of the weighted average per acre special assessment shall be a ratio calculated as follows: (a) The numerator shall be the total amount of money estimated to be derived from the imposition of per acre special assessments on the nonforest lands in the conservation district; and (b) the denominator shall be the total number of nonforest land acres in the conservation district that receive benefit from the activities of the conservation district and which are subject to the special assessments of the conservation district. No more than ten thousand acres of such forest lands that is both owned by the same person or entity and is located in the same conservation district may be subject to the special assessments that are imposed for that conservation district in any year. Per parcel charges shall not be imposed on forest land parcels. However, in lieu of a per parcel charge, a charge of up to three dollars per forest landowner may be imposed on each owner of forest lands whose forest lands are subject to a per acre rate of assessment.

(4) A conservation district shall prepare an assessment roll that implements the system of assessments approved by the county legislative authority. The special assessments from the assessment roll shall be spread by the county assessor as a separate item on the tax rolls and shall be collected and accounted for with property taxes by the county treasurer. The amount of a special assessment shall constitute a lien against the land that shall be subject to the same conditions as a tax lien, collected by the treasurer in the same manner as delinquent real property taxes, and subject to the same interest rate and penalty as for delinquent property taxes. The county treasurer shall deduct an amount from the collected special assessments, as established by the county legislative authority, to cover the costs incurred by the county assessor and county treasurer in spreading and collecting the special assessments, but not to exceed the actual costs of such work. All remaining funds collected under this section shall be transferred to the conservation district and used by the conservation district in accordance with this section.

(5) The special assessments for a conservation district shall not be spread on the tax rolls and shall not be collected with property tax collections in the following year if, after the system of assessments has been approved by the county legislative authority but prior to the fifteenth day of December in that year, a petition has been filed with the county legislative authority objecting to the imposition of such special assessments, which petition has been signed by at least twenty percent of the owners of land that would be subject to the special assessments to be imposed for a conservation district.

Passed by the Senate March 16, 2005.

Passed by the House April 20, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 467

[Engrossed Substitute Senate Bill 5140]

SURPLUS CAMPAIGN FUNDS—DISPOSITION

AN ACT Relating to the disposal of surplus funds of candidates or political committees; amending RCW 42.17.095; and declaring an emergency.

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

Sec. 1. RCW 42.17.095 and 1995 c 397 s 31 are each amended to read as follows:

The surplus funds of a candidate, or of a political committee supporting or opposing a candidate, may only be disposed of in any one or more of the following ways:

(1) Return the surplus to a contributor in an amount not to exceed that contributor's original contribution;

(2) Transfer the surplus to the candidate's personal account as reimbursement for lost earnings incurred as a result of that candidate's election campaign. Such lost earnings shall be verifiable as unpaid salary or, when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the candidate or the candidate's political committee. The committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090;

(3) Transfer the surplus without limit to a political party or to a caucus political committee;

(4) Donate the surplus to a charitable organization registered in accordance with chapter 19.09 RCW;

(5) Transmit the surplus to the state treasurer for deposit in the general fund, the oral history, state library, and archives account under RCW 43.07.380, or the legislative international trade account under RCW 44.04.270, as specified by the candidate or political committee; or

(6) Hold the surplus in the campaign depository or depositories designated in accordance with RCW 42.17.050 for possible use in a future election campaign for the same office last sought by the candidate and report any such disposition in accordance with RCW 42.17.090: PROVIDED, That if the

candidate subsequently announces or publicly files for office, information as appropriate is reported to the commission in accordance with RCW 42.17.040 through 42.17.090. If a subsequent office is not sought the surplus held shall be disposed of in accordance with the requirements of this section.

(7) Hold the surplus campaign funds in a separate account for nonreimbursed public office-related expenses or as provided in this section, and report any such disposition in accordance with RCW 42.17.090. The separate account required under this subsection shall not be used for deposits of campaign funds that are not surplus.

(8) No candidate or authorized committee may transfer funds to any other candidate or other political committee.

The disposal of surplus funds under this section shall not be considered a contribution for purposes of this chapter.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 16, 2005.

Passed by the House April 5, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 468

[Engrossed Substitute Senate Bill 5158]

MEDICAL RECORDS—DISCLOSURE

AN ACT Relating to making certain provisions in the uniform health care information act consistent with the health insurance portability and accountability act privacy regulation, by addressing the period of validity of an authorization, accounting for disclosures, reporting of criminal activities, sharing quality improvement information, and modifying provisions on payment for health care, health care operations, and related definitions; and amending RCW 70.02.010, 70.02.020, 70.02.030, and 70.02.050.

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

Sec. 1. RCW 70.02.010 and 2002 c 318 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) "Audit" means an assessment, evaluation, determination, or investigation of a health care provider by a person not employed by or affiliated with the provider to determine compliance with:

- (a) Statutory, regulatory, fiscal, medical, or scientific standards;
- (b) A private or public program of payments to a health care provider; or
- (c) Requirements for licensing, accreditation, or certification.

(2) "Directory information" means information disclosing the presence, and for the purpose of identification, the name, (~~residence, sex~~) location within a health care facility, and the general health condition of a particular patient who is a patient in a health care facility or who is currently receiving emergency health care in a health care facility.

(3) "General health condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.

(4) "Health care" means any care, service, or procedure provided by a health care provider:

(a) To diagnose, treat, or maintain a patient's physical or mental condition; or

(b) That affects the structure or any function of the human body.

(5) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

(6) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care, including a patient's deoxyribonucleic acid and identified sequence of chemical base pairs. The term includes any ~~(record)~~ required accounting of disclosures of health care information.

(7) "Health care operations" means any of the following activities of a health care provider, health care facility, or third-party payor to the extent that the activities are related to functions that make an entity a health care provider, a health care facility, or a third-party payor:

(a) Conducting: Quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, if the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;

(b) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance and third-party payor performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of nonhealth care professionals, accreditation, certification, licensing, or credentialing activities;

(c) Underwriting, premium rating, and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care, including stop-loss insurance and excess of loss insurance, if any applicable legal requirements are met;

(d) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;

(e) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the health care facility or third-party payor, including formulary development and administration, development, or improvement of methods of payment or coverage policies; and

(f) Business management and general administrative activities of the health care facility, health care provider, or third-party payor including, but not limited to:

(i) Management activities relating to implementation of and compliance with the requirements of this chapter;

(ii) Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that health care information is not disclosed to such policy holder, plan sponsor, or customer;

(iii) Resolution of internal grievances;

(iv) The sale, transfer, merger, or consolidation of all or part of a health care provider, health care facility, or third-party payor with another health care provider, health care facility, or third-party payor or an entity that following such activity will become a health care provider, health care facility, or third-party payor, and due diligence related to such activity; and

(v) Consistent with applicable legal requirements, creating deidentified health care information or a limited dataset and fund-raising for the benefit of the health care provider, health care facility, or third-party payor.

(8) "Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.

~~((8))~~ (9) "Institutional review board" means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects.

~~((9))~~ (10) "Maintain," as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

~~((10))~~ (11) "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

~~((11))~~ (12) "Payment" means:

(a) The activities undertaken by:

(i) A third-party payor to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits by the third-party payor; or

(ii) A health care provider, health care facility, or third-party payor, to obtain or provide reimbursement for the provision of health care; and

(b) The activities in (a) of this subsection that relate to the patient to whom health care is provided and that include, but are not limited to:

(i) Determinations of eligibility or coverage, including coordination of benefits or the determination of cost-sharing amounts, and adjudication or subrogation of health benefit claims;

(ii) Risk adjusting amounts due based on enrollee health status and demographic characteristics;

(iii) Billing, claims management, collection activities, obtaining payment under a contract for reinsurance, including stop-loss insurance and excess of loss insurance, and related health care data processing;

(iv) Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;

(v) Utilization review activities, including precertification and preauthorization of services, and concurrent and retrospective review of services; and

(vi) Disclosure to consumer reporting agencies of any of the following health care information relating to collection of premiums or reimbursement:

(A) Name and address;

(B) Date of birth;

(C) Social security number;

(D) Payment history;

(E) Account number; and

(F) Name and address of the health care provider, health care facility, and/or third-party payor.

(13) "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.

~~((+2))~~ (14) "Reasonable fee" means the charges for duplicating or searching the record, but shall not exceed sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages. In addition, a clerical fee for searching and handling may be charged not to exceed fifteen dollars. These amounts shall be adjusted biennially in accordance with changes in the consumer price index, all consumers, for Seattle-Tacoma metropolitan statistical area as determined by the secretary of health. However, where editing of records by a health care provider is required by statute and is done by the provider personally, the fee may be the usual and customary charge for a basic office visit.

~~((+3))~~ (15) "Third-party payor" means an insurer regulated under Title 48 RCW authorized to transact business in this state or other jurisdiction, including a health care service contractor, and health maintenance organization; or an employee welfare benefit plan; or a state or federal health benefit program.

(16) "Treatment" means the provision, coordination, or management of health care and related services by one or more health care providers or health care facilities, including the coordination or management of health care by a health care provider or health care facility with a third party; consultation between health care providers or health care facilities relating to a patient; or the referral of a patient for health care from one health care provider or health care facility to another.

Sec. 2. RCW 70.02.020 and 1993 c 448 s 2 are each amended to read as follows:

(1) Except as authorized in RCW 70.02.050, a health care provider, an individual who assists a health care provider in the delivery of health care, or an agent and employee of a health care provider may not disclose health care information about a patient to any other person without the patient's written authorization. A disclosure made under a patient's written authorization must conform to the authorization.

~~((Health care providers or facilities shall chart all disclosures, except to third party payors, of health care information, such chartings to become part of the health care information.))~~

(2) A patient has a right to receive an accounting of disclosures of health care information made by a health care provider or a health care facility in the six years before the date on which the accounting is requested, except for disclosures:

(a) To carry out treatment, payment, and health care operations;

(b) To the patient of health care information about him or her;

- (c) Incident to a use or disclosure that is otherwise permitted or required;
- (d) Pursuant to an authorization where the patient authorized the disclosure of health care information about himself or herself;
- (e) Of directory information;
- (f) To persons involved in the patient's care;
- (g) For national security or intelligence purposes if an accounting of disclosures is not permitted by law;
- (h) To correctional institutions or law enforcement officials if an accounting of disclosures is not permitted by law; and
- (i) Of a limited data set that excludes direct identifiers of the patient or of relatives, employers, or household members of the patient.

Sec. 3. RCW 70.02.030 and 2004 c 166 s 19 are each amended to read as follows:

(1) A patient may authorize a health care provider or health care facility to disclose the patient's health care information. A health care provider or health care facility shall honor an authorization and, if requested, provide a copy of the recorded health care information unless the health care provider or health care facility denies the patient access to health care information under RCW 70.02.090.

(2) A health care provider or health care facility may charge a reasonable fee for providing the health care information and is not required to honor an authorization until the fee is paid.

(3) To be valid, a disclosure authorization to a health care provider or health care facility shall:

- (a) Be in writing, dated, and signed by the patient;
- (b) Identify the nature of the information to be disclosed;
- (c) Identify the name ~~((-, address,))~~ and institutional affiliation of the person or class of persons to whom the information is to be disclosed;
- (d) ~~((Except for third party payors,))~~ Identify the provider or class of providers who ~~((is))~~ are to make the disclosure; ~~((and))~~
- (e) Identify the patient; and
- (f) Contain an expiration date or an expiration event that relates to the patient or the purpose of the use or disclosure.

(4) Unless disclosure without authorization is otherwise permitted under RCW 70.02.050 or the federal health insurance portability and accountability act of 1996 and its implementing regulations, an authorization may permit the disclosure of health care information to a class of persons that includes:

- (a) Researchers if the health care provider or health care facility obtains the informed consent for the use of the patient's health care information for research purposes; or
- (b) Third-party payors if the information is only disclosed for payment purposes.

(5) Except as provided by this chapter, the signing of an authorization by a patient is not a waiver of any rights a patient has under other statutes, the rules of evidence, or common law.

~~((5))~~ (6) When an authorization permits the disclosure of health care information to a financial institution or an employer of the patient for purposes other than payment, the authorization as it pertains to those disclosures shall

expire ninety days after the signing of the authorization, unless the authorization is renewed by the patient.

(7) A health care provider or health care facility shall retain the original or a copy of each authorization or revocation in conjunction with any health care information from which disclosures are made. ~~((This requirement shall not apply to disclosures to third party payors.~~

~~(6) Except for authorizations given pursuant to an agreement with a treatment or monitoring program or disciplinary authority under chapter 18.71 or 18.130 RCW, when the patient is under the supervision of the department of corrections, or to provide information to third party payors, an authorization may not permit the release of health care information relating to future health care that the patient receives more than ninety days after the authorization was signed. Patients shall be advised of the period of validity of their authorization on the disclosure authorization form. If the authorization does not contain an expiration date and the patient is not under the supervision of the department of corrections, it expires ninety days after it is signed.~~

~~(7))~~ (8) Where the patient is under the supervision of the department of corrections, an authorization signed pursuant to this section for health care information related to mental health or drug or alcohol treatment expires at the end of the term of supervision, unless the patient is part of a treatment program that requires the continued exchange of information until the end of the period of treatment.

Sec. 4. RCW 70.02.050 and 1998 c 158 s 1 are each amended to read as follows:

(1) A health care provider or health care facility may disclose health care information about a patient without the patient's authorization to the extent a recipient needs to know the information, if the disclosure is:

(a) To a person who the provider or facility reasonably believes is providing health care to the patient;

(b) To any other person who requires health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial, ~~((or))~~ actuarial services to or other health care operations for or on behalf of the health care provider or health care facility; or for assisting the health care provider or health care facility in the delivery of health care and the health care provider or health care facility reasonably believes that the person:

(i) Will not use or disclose the health care information for any other purpose; and

(ii) Will take appropriate steps to protect the health care information;

(c) To any other health care provider or health care facility reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(d) To any person if the health care provider or health care facility reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual, however there is no obligation under this chapter on the part of the provider or facility to so disclose;

(e) ~~((Oral, and made))~~ To immediate family members of the patient, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(f) To a health care provider or health care facility who is the successor in interest to the health care provider or health care facility maintaining the health care information;

(g) For use in a research project that an institutional review board has determined:

(i) Is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;

(ii) Is impracticable without the use or disclosure of the health care information in individually identifiable form;

(iii) Contains reasonable safeguards to protect the information from redisclosure;

(iv) Contains reasonable safeguards to protect against identifying, directly or indirectly, any patient in any report of the research project; and

(v) Contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project;

(h) To a person who obtains information for purposes of an audit, if that person agrees in writing to:

(i) Remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and

(ii) Not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;

(i) To an official of a penal or other custodial institution in which the patient is detained;

(j) To provide directory information, unless the patient has instructed the health care provider or health care facility not to make the disclosure;

(k) ~~((In the case of a hospital or health care provider to provide, in cases reported by))~~ To fire, police, sheriff, or ~~((other))~~ another public authority, that brought, or caused to be brought, the patient to the health care facility or health care provider if the disclosure is limited to the patient's name, residence, sex, age, occupation, condition, diagnosis, estimated or actual discharge date, or extent and location of injuries as determined by a physician, and whether the patient was conscious when admitted;

(l) To federal, state, or local law enforcement authorities and the health care provider, health care facility, or third-party payor believes in good faith that the health care information disclosed constitutes evidence of criminal conduct that occurred on the premises of the health care provider, health care facility, or third-party payor;

(m) to another health care provider, health care facility, or third-party payor for the health care operations of the health care provider, health care facility, or third-party payor that receives the information, if each entity has or had a

relationship with the patient who is the subject of the health care information being requested, the health care information pertains to such relationship, and the disclosure is for the purposes described in RCW 70.02.010(7) (a) and (b); or

(n) For payment.

(2) A health care provider shall disclose health care information about a patient without the patient's authorization if the disclosure is:

(a) To federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal licensure, certification or registration rules or laws; or when needed to protect the public health;

(b) To federal, state, or local law enforcement authorities to the extent the health care provider is required by law;

(c) To county coroners and medical examiners for the investigations of deaths;

(d) Pursuant to compulsory process in accordance with RCW 70.02.060.

(3) All state or local agencies obtaining patient health care information pursuant to this section shall adopt rules establishing their record acquisition, retention, and security policies that are consistent with this chapter.

Passed by the Senate April 19, 2005.

Passed by the House April 5, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 469

[Engrossed Substitute Senate Bill 5285]

WATER QUALITY JOINT DEVELOPMENT ACT

AN ACT Relating to updating the water quality joint development act to provide local government flexibility; amending RCW 70.150.040, 70.150.070, and 90.48.285; and reenacting and amending RCW 39.10.020 and 39.10.902.

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

Sec. 1. RCW 70.150.040 and 1989 c 175 s 136 are each amended to read as follows:

The legislative authority of a public body may secure services by means of an agreement with a service provider. Such an agreement may obligate a service provider to perform one or more of the following services: Design, finance, construct, own, operate, or maintain water pollution control facilities by which services are provided to the public body. Service agreements and related agreements under this chapter shall be entered into in accordance with the following procedure:

(1) The legislative authority of the public body shall publish notice that it is seeking to secure certain specified services by means of entering into an agreement with a service provider. The notice shall be published in the official newspaper of the public body, or if there is no official newspaper then in a newspaper in general circulation within the boundaries of the public body, at least once each week for two consecutive weeks. The final notice shall appear not less than ~~((sixty))~~ thirty days before the date for submission of proposals. The notice shall state (a) the nature of the services needed, (b) the location in the public body's offices where the requirements and standards for construction,

operation, or maintenance of projects needed as part of the services are available for inspection, and (c) the final date for the submission of proposals. The legislative authority may undertake a prequalification process by the same procedure set forth in this subsection.

(2) The request for proposals shall (a) indicate the time and place responses are due, (b) include evaluation criteria to be considered in selecting a service provider, (c) specify minimum requirements or other limitations applying to selection, (d) insofar as practicable, set forth terms and provisions to be included in the service agreement, and (e) require the service provider to demonstrate in its proposal to the public body's satisfaction that ((a public body's annual costs will be lower under its proposal than they would be if the public body financed, constructed, owned, operated, and maintained facilities required for service)) it is in the public interest to enter into the service agreement and that the service agreement is financially sound and advantageous to the public body from the standpoint of annual costs, quality of services, experience of the provider, reduction of risk, and other factors.

(3) The criteria set forth in the request for proposals shall be those determined to be relevant by the legislative authority of the public body, which may include but shall not be limited to: The respondent's prior experience, including design, construction, or operation of other similar facilities; respondent's management capability, schedule availability, and financial resources; cost of the service; nature of facility design proposed by respondents; system reliability; performance standards required for the facilities; compatibility with existing service facilities operated by the public body or other providers of service to the public body; project performance warranties; penalty and other enforcement provisions; environmental protection measures to be used; and allocation of project risks. The legislative authority ~~((shall))~~ may designate persons or entities within or outside the public body (a) to assist it in issuing the request for proposals to ensure that proposals will be responsive to its needs, and (b) to assist it in evaluating the proposals received. ~~((The designee shall not be a member of the legislative authority.))~~

(4) After proposals under subsections (1) through (3) of this section have been received, the legislative authority~~((s))~~ or its designee shall determine, on the basis of its review of the proposals, whether one or more proposals have been received from respondents which are (a) determined to be qualified to provide the requested services, and (b) responsive to the notice and evaluation criteria, which shall include, but not be limited to, cost of services. These chosen respondents may, at the discretion of the public body, be aggregated into a short list of qualified respondents, who shall be referred to as the selected respondents in this section. The legislative authority or its designee shall conduct a bidder's conference to include all these selected respondents to assure a full understanding of the proposals. The bidder's conference shall ~~((also allow the designee to))~~ make these selected respondents aware of any changes in the request for proposal. Any information related to revisions in the request for proposal shall be made available to all these selected respondents. Any selected respondent shall be accorded a reasonable opportunity for revision of its proposal prior to commencement of the negotiation provided in subsection (5) of this section, for the purpose of obtaining best and final proposals.

(5) After such conference is held, the legislative authority or its designee may negotiate with the selected respondent whose proposal it determines to be the most advantageous to the public body, considering the criteria set forth in the request for proposals. If negotiations are conducted by the designee, the legislative authority shall continue to oversee the negotiations and provide direction to its designee. If the negotiation is unsuccessful, the legislative authority may ~~((authorize the designee to))~~ commence negotiations with any other selected respondent. On completion of this process, ~~((the designee shall report to))~~ and after the department of ecology review and comments as provided for in subsection (9) of this section, and after public hearing as provided for in subsection (10) of this section, the legislative authority ~~((on his or her recommendations and the reasons for them))~~ may approve a contract with its chosen respondent.

(6) Any person aggrieved by the legislative authority's approval of a contract may appeal the determination to an appeals board selected by the public body, which shall consist of not less than three persons determined by the legislative authority to be qualified for such purposes. Such board shall promptly hear and determine whether the public body entered into the agreement in accordance with this chapter and other applicable law. ~~((The hearing shall be conducted in the same manner as an adjudicative proceeding under chapter 34.05 RCW.))~~ The board shall have the power only to affirm or void the agreement.

(7) Notwithstanding the foregoing, where contracting for design services by the public body is done separately from contracting for other services permitted under this chapter, the contracting for design ~~((of water pollution control facilities))~~ services shall be done in accordance with chapter 39.80 RCW.

(8) ~~((A))~~ If a public body elects to enter into an agreement whereby the service provider will own all or a portion of the water pollution control facilities it constructs, the service agreement shall include provision for an option by which a public body may acquire at fair market value facilities dedicated to such service.

(9) Before any service agreement is entered into by the public body, it shall be reviewed ~~((and approved))~~ by the department of ecology to ensure ~~((that))~~ consistency with the purposes of chapters 90.46 and 90.48 RCW ~~((are implemented))~~.

The department of ecology has thirty days from receipt of the proposed service agreement to complete its review and provide the public body with comments. A review under this section is not intended to replace any additional permitting or regulatory reviews and approvals that may be required under other applicable laws.

(10) Prior to entering into any service agreement under this chapter, the public body must have made written findings, after holding a public hearing on the proposal, that it is in the public interest to enter into the service agreement and that the service agreement is financially sound and advantageous compared to other methods.

(11) Each service agreement shall include project performance bonds or other security by the service provider which in the judgment of the public body is sufficient to secure adequate performance by the service provider.

Sec. 2. RCW 70.150.070 and 1986 c 244 s 7 are each amended to read as follows:

RCW 70.150.030 through 70.150.060 shall be deemed to provide an additional method for the provision of services from and in connection with facilities and shall be regarded as supplemental and additional to powers conferred by other state laws and by federal laws. A public body that is also eligible to enter into agreements with service providers under the alternative public works contracting procedures in chapter 39.10 RCW may elect to use either RCW 39.10.051 and 39.10.061 or this chapter as its method of procurement for such services.

Sec. 3. RCW 39.10.020 and 2003 c 352 s 1, 2003 c 301 s 2, and 2003 c 300 s 3 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) "Alternative public works contracting procedure" means the design-build and the general contractor/construction manager contracting procedures authorized in RCW 39.10.051 and 39.10.061, respectively. Public bodies eligible to enter into agreements with service providers for the furnishing of services in connection with water pollution control facilities under the authority of chapter 70.150 RCW may elect to use either RCW 39.10.051 and 39.10.061 or chapter 70.150 RCW as their method of procurement for such services.

(2) "Public body" means the state department of general administration; the University of Washington; Washington State University; 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 and specifically authorized as provided in RCW 39.10.120(4); every county with a population greater than four hundred fifty thousand; every port district with total revenues greater than fifteen million dollars per year; every public hospital district with total revenues greater than fifteen million dollars per year utilizing the design-build procedure authorized by RCW 39.10.051 and every public hospital district, regardless of total revenues, proposing projects that are considered and approved by the public hospital district project review board under RCW 39.10.117; every public utility district with revenues from energy sales greater than twenty-three million dollars per year; those school districts proposing projects that are considered and approved by the school district project review board under RCW 39.10.115; and the state ferry system.

(3) "Public works project" means any work for a public body within the definition of the term public work in RCW 39.04.010.

(4) "Job order contract" means a contract between a public body or any school district and a registered or licensed contractor in which the contractor agrees to a fixed period, indefinite quantity delivery order contract which provides for the use of negotiated, definitive work orders for public works as defined in RCW 39.04.010.

(5) "Job order contractor" means a registered or licensed contractor awarded a job order contract.

(6) "Unit price book" means a book containing specific prices, based on generally accepted industry standards and information, where available, for various items of work to be performed by the job order contractor. The prices may include: All the costs of materials; labor; equipment; overhead, including

bonding costs; and profit for performing the items of work. The unit prices for labor must be at the rates in effect at the time the individual work order is issued.

(7) "Work order" means an order issued for a definite scope of work to be performed pursuant to a job order contract.

Sec. 4. RCW 90.48.285 and 1987 c 109 s 144 are each amended to read as follows:

The department is authorized to enter into contracts with any municipal or public corporation or political subdivision within the state for the purpose of assisting such agencies to finance the design and construction of water pollution control projects, whether procured through chapter 39.10 or 70.150 RCW, or otherwise, that are necessary to prevent the discharge of untreated or inadequately treated sewage or other waste into the waters of the state, including but not limited to, systems for the control of storm or surface waters which will provide for the removal of waste or polluting materials in a manner conforming to the comprehensive plan of water pollution control and abatement proposed by the agencies and approved by the department. Any such contract may provide for:

The payment by the department to a municipal or public corporation or political subdivision on a monthly, quarterly, or annual basis of varying amounts of moneys as advances which shall be repayable by said municipal or public corporation, or political subdivision under conditions determined by the department.

Contracts made by the department shall be subject to the following limitations:

(1) No contract shall be made unless the department shall find that the project cannot be financed at reasonable cost or within statutory limitations by the borrower without the making of such contract.

(2) No contract shall be made with any public or municipal corporation or political subdivision to assist in the financing of any project located within a sewage drainage basin for which the department shall have previously adopted a comprehensive water pollution control and abatement plan unless the project is found by the department to conform with the basin comprehensive plan.

(3) The department shall determine the interest rate, not to exceed ten percent per annum, which such advances shall bear.

(4) The department shall provide such reasonable terms and conditions of repayment of advances as it may determine.

(5) The total outstanding amount which the department may at any time be obligated to pay under all outstanding contracts made pursuant to this section shall not exceed the moneys available for such payment.

(6) Municipal or public corporations or political subdivisions shall meet such qualifications and follow such procedures in applying for contract assistance as shall be established by the department.

In making such contracts the department shall give priority to projects which will provide relief from actual or potential public health hazards or water pollution conditions and which provide substantial capacity beyond present requirements to meet anticipated future demand.

Sec. 5. RCW 39.10.902 and 2003 c 301 s 8 and 2003 c 300 s 8 are each reenacted and amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2007:

- (1) RCW 39.10.010 and 1994 c 132 s 1;
- (2) RCW 39.10.020 and 2005 c ... s 3 (section 3 of this act), 2003 c 352 s 1, 2003 c 301 s 2, 2003 c 300 s 3, 2001 c 328 s 1, 2000 c 209 s 1, 1997 c 376 s 1, & 1994 c 132 s 2;
- (3) RCW 39.10.030 and 1997 c 376 s 2 & 1994 c 132 s 3;
- (4) RCW 39.10.040 and 1994 c 132 s 4;
- (5) RCW 39.10.051 and 2003 c 352 s 2, 2003 c 300 s 4, 2002 c 46 s 1, & 2001 c 328 s 2;
- (6) RCW 39.10.061 and 2003 c 352 s 3, 2003 c 300 s 5, 2002 c 46 s 2, & 2001 c 328 s 3;
- (7) RCW 39.10.065 and 1997 c 376 s 5;
- (8) RCW 39.10.067 and 2003 c 301 s 3, 2002 c 46 s 3, & 2000 c 209 s 3;
- (9) RCW 39.10.070 and 1994 c 132 s 7;
- (10) RCW 39.10.080 and 1994 c 132 s 8;
- (11) RCW 39.10.090 and 1994 c 132 s 9;
- (12) RCW 39.10.100 and 1994 c 132 s 10;
- (13) RCW 39.10.115 and 2001 c 328 s 4 & 2000 c 209 s 4;
- (14) RCW 39.10.900 and 1994 c 132 s 13;
- (15) RCW 39.10.901 and 1994 c 132 s 14;
- (16) RCW 39.10.068 and 2003 c 300 s 6;
- (17) RCW 39.10.117 and 2003 c 300 s 7; and
- (18) RCW 39.10.130 and 2003 c 301 s 1.

Passed by the Senate March 15, 2005.

Passed by the House April 12, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 470

[Substitute Senate Bill 5492]

HEALTH CARE PRACTITIONER RESTRICTIONS—REPORTING

AN ACT Relating to hospital reporting of restrictions on health care practitioners; and amending RCW 70.41.210 and 18.130.070.

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

Sec. 1. RCW 70.41.210 and 1994 sp.s. c 9 s 743 are each amended to read as follows:

(1) ~~The chief administrator or executive officer of a hospital shall report to the ((medical quality assurance commission when a physician's clinical privileges are terminated or are restricted based on a determination, in accordance with an institution's bylaws, that a physician has either committed an act or acts which may constitute unprofessional conduct. The officer shall also report if a physician accepts voluntary termination in order to foreclose or terminate actual or possible hospital action to suspend, restrict, or terminate a physician's clinical privileges))~~ department when the practice of a health care practitioner as defined in subsection (2) of this section is restricted, suspended, limited, or terminated based upon a conviction, determination, or finding by the

hospital that the health care practitioner has committed an action defined as unprofessional conduct under RCW 18.130.180. The chief administrator or executive officer shall also report any voluntary restriction or termination of the practice of a health care practitioner as defined in subsection (2) of this section while the practitioner is under investigation or the subject of a proceeding by the hospital regarding unprofessional conduct, or in return for the hospital not conducting such an investigation or proceeding or not taking action. The department will forward the report to the appropriate disciplining authority.

(2) The reporting requirements apply to the following health care practitioners: Pharmacists as defined in chapter 18.64 RCW; advanced registered nurse practitioners as defined in chapter 18.79 RCW; dentists as defined in chapter 18.32 RCW; naturopaths as defined in chapter 18.36A RCW; optometrists as defined in chapter 18.53 RCW; osteopathic physicians and surgeons as defined in chapter 18.57 RCW; osteopathic physician assistants as defined in chapter 18.57A RCW; physicians as defined in chapter 18.71 RCW; physician assistants as defined in chapter 18.71A RCW; podiatric physicians and surgeons as defined in chapter 18.22 RCW; and psychologists as defined in chapter 18.83 RCW.

~~((Such a))~~ (3) Reports made under subsection (1) of this section shall be made within ~~((sixty))~~ fifteen days of the date ~~((action was taken by the hospital's peer review committee or the physician's acceptance of voluntary termination or restriction of privileges))~~; (a) A conviction, determination, or finding is made by the hospital that the health care practitioner has committed an action defined as unprofessional conduct under RCW 18.130.180; or (b) the voluntary restriction or termination of the practice of a health care practitioner, including his or her voluntary resignation, while under investigation or the subject of proceedings regarding unprofessional conduct under RCW 18.130.180 is accepted by the hospital.

(4) Failure of a hospital to comply with this section is punishable by a civil penalty not to exceed two hundred fifty dollars.

(5) A hospital, its chief administrator, or its executive officer who files a report under this section is immune from suit, whether direct or derivative, in any civil action related to the filing or contents of the report, unless the conviction, determination, or finding on which the report and its content are based is proven to not have been made in good faith. The prevailing party in any action brought alleging the conviction, determination, finding, or report was not made in good faith, shall be entitled to recover the costs of litigation, including reasonable attorneys' fees.

(6) The department shall forward reports made under subsection (1) of this section to the appropriate disciplining authority designated under Title 18 RCW within fifteen days of the date the report is received by the department. The department shall notify a hospital that has made a report under subsection (1) of this section of the results of the disciplining authority's case disposition decision within fifteen days after the case disposition. Case disposition is the decision whether to issue a statement of charges, take informal action, or close the complaint without action against a practitioner. In its biennial report to the legislature under RCW 18.130.310, the department shall specifically identify the case dispositions of reports made by hospitals under subsection (1) of this section.

(7) The department shall not increase hospital license fees to carry out this section before July 1, 2007.

Sec. 2. RCW 18.130.070 and 1998 c 132 s 8 are each amended to read as follows:

(1) The disciplining authority may adopt rules requiring any person, including, but not limited to, licensees, corporations, organizations, health care facilities, impaired practitioner programs, or voluntary substance abuse monitoring programs approved by the disciplining authority and state or local governmental agencies, to report to the disciplining authority any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct, or to report information to the disciplining authority, an impaired practitioner program, or voluntary substance abuse monitoring program approved by the disciplining authority, which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition. If a report has been made by a hospital to the department pursuant to RCW 70.41.210, a report to the disciplining authority is not required. To facilitate meeting the intent of this section, the cooperation of agencies of the federal government is requested by reporting any conviction, determination, or finding that a federal employee or contractor regulated by the ~~((disciplinatory))~~ disciplining authorities enumerated in this chapter has committed an act which constituted unprofessional conduct and reporting any information which indicates that a federal employee or contractor regulated by the ~~((disciplinatory))~~ disciplining authorities enumerated in this chapter may not be able to practice his or her profession with reasonable skill and safety as a result of a mental or physical condition.

(2) If a person fails to furnish a required report, the disciplining authority may petition the superior court of the county in which the person resides or is found, and the court shall issue to the person an order to furnish the required report. A failure to obey the order is a contempt of court as provided in chapter 7.21 RCW.

(3) A person is immune from civil liability, whether direct or derivative, for providing information to the disciplining authority pursuant to the rules adopted under subsection (1) of this section.

(4) The holder of a license subject to the jurisdiction of this chapter shall report to the disciplining authority any conviction, determination, or finding that the licensee has committed unprofessional conduct or is unable to practice with reasonable skill or safety. Failure to report within thirty days of notice of the conviction, determination, or finding constitutes grounds for disciplinary action.

Passed by the Senate April 20, 2005.

Passed by the House April 19, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 471

[Substitute Senate Bill 5692]

TAX REFUND ANTICIPATION LOANS

AN ACT Relating to tax refund anticipation loans; adding a new chapter to Title 19 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. This chapter may be known and cited as the tax refund anticipation loan act.

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

(1) "Borrower" means a taxpayer who receives the proceeds of a refund anticipation loan.

(2) "Department" means the department of financial institutions.

(3) "Director" means the director of the department of financial institutions.

(4) "Facilitator" means a person who receives or accepts for delivery an application for a refund anticipation loan, delivers a check in payment of refund anticipation loan proceeds, or in any other manner acts to allow the making of a refund anticipation loan. "Facilitator" does not include a bank, thrift, savings association, industrial bank, or credit union, operating under the laws of the United States or this state, an affiliate that is a servicer for such an entity, or any person who acts solely as an intermediary and does not deal with a taxpayer in the making of the refund anticipation loan.

(5) "Lender" means a person who extends credit to a borrower in the form of a refund anticipation loan.

(6) "Person" means an individual, a firm, a partnership, an association, a corporation, or other entity.

(7) "Refund anticipation loan" means a loan borrowed by a taxpayer from a lender based on the taxpayer's anticipated federal income tax refund.

(8) "Refund anticipation loan fee" means the charges, fees, or other consideration imposed by the lender for a refund anticipation loan. This term does not include any charge, fee, or other consideration usually imposed by the facilitator in the ordinary course of business for nonloan services, such as fees for tax return preparation and fees for electronic filing of tax returns.

(9) "Refund anticipation loan fee schedule" means a listing or table of refund anticipation loan fees charged by the facilitator or the lender for three or more representative refund anticipation loan amounts. The schedule shall list separately each fee or charge imposed, as well as a total of all fees imposed, related to the making of refund anticipation loans. The schedule shall also include, for each representative loan amount, the estimated annual percentage rate calculated under the guidelines established by the federal truth in lending act, 15 U.S.C. Sec. 1601 et seq.

(10) "Taxpayer" means an individual who files a federal income tax return.

NEW SECTION. Sec. 3. (1) No person may individually, or in conjunction or cooperation with another person act as a facilitator unless that person is:

(a) A tax preparer or works for a person that engages in the business of tax preparation;

(b) Accepted by the internal revenue service as an authorized IRS e-file provider; and

(c) Registered with the department as a facilitator. The director may prescribe the registration form.

(2) A person is registered as a facilitator by providing the department, on or before December 31st of each year with:

(a) A list of authorized IRS e-file providers in the state of Washington for the current tax filing year; and

(b) A thirty-five dollar processing fee for each authorized e-file provider on the list.

(3) After the December 31st deadline, a facilitator may amend the registration required in subsection (2) of this section to reflect additions or deletions of office locations or e-file providers authorized by the internal revenue service.

(4) The department shall make available to the public a list of all facilitators registered under this section.

(5) This section does not apply to a person doing business as a bank, thrift, savings association, industrial bank, or credit union, operating under the laws of the United States or this state, an affiliate that is a servicer for such an entity, or any person who acts solely as an intermediary and does not deal with a taxpayer in the making of the refund anticipation loan.

(6) This chapter shall preempt and be exclusive of all local acts, statutes, ordinances, and regulations relating to refund anticipation loans. This subsection shall be given retroactive and prospective effect.

NEW SECTION. Sec. 4. (1) For all refund anticipation loans, a facilitator must provide clear disclosure to the borrower prior to the borrower's completion of the application. The disclosure must contain the following:

(a) The refund anticipation loan fee schedule; and

(b) A written statement, in a minimum of ten-point type, containing the following elements:

(i) That a refund anticipation loan is a loan, and is not the borrower's actual income tax refund;

(ii) That the taxpayer can file an income tax return electronically without applying for a refund anticipation loan;

(iii) The average times according to the internal revenue service within which a taxpayer who does not obtain a refund anticipation loan can expect to receive a refund if the taxpayer's return is (A) filed electronically and the refund is directly deposited to the taxpayer's bank account or mailed to the taxpayer, and (B) mailed to the internal revenue service and the refund is directly deposited to the taxpayer's bank account or mailed to the taxpayer;

(iv) That the internal revenue service does not guarantee that it will pay the full amount of the anticipated refund and it does not guarantee a specific date that a refund will be deposited into a taxpayer's financial institution account or mailed to a taxpayer;

(v) That the borrower is responsible for repayment of the loan and related fees in the event that the tax refund is not paid or paid in full;

(vi) The estimated time within which the loan proceeds will be paid to the borrower if the loan is approved;

(vii) The fee that will be charged, if any, if the borrower's loan is not approved; and

(viii) The borrower's right to rescind the refund anticipation loan transaction as provided in section 5 of this act.

(2) The following additional information must be provided to the borrower of a refund anticipation loan before consummation of the loan transaction:

(a) The estimated total fees for obtaining the refund anticipation loan; and

(b) The estimated annual percentage rate for the borrower's refund anticipation loan, using the guidelines established under the federal truth in lending act (15 U.S.C. Sec. 1601 et seq.).

NEW SECTION. Sec. 5. A borrower may rescind a loan, on or before the close of business on the next day of business, by either returning the original check issued for the loan or providing the amount of the loan in cash to the lender or the facilitator. The facilitator may not charge the borrower a fee for rescinding the loan or a refund anticipation loan fee if the loan is rescinded but may charge the borrower the administrative cost of establishing a bank account to electronically receive the refund.

NEW SECTION. Sec. 6. It is unlawful for a facilitator of a refund anticipation loan to engage in any of the following activities:

(1) Misrepresent a material factor or condition of a refund anticipation loan;

(2) Fail to process the application for a refund anticipation loan promptly after the consumer applies for the loan;

(3) Engage in any dishonest, fraudulent, unfair, unconscionable, or unethical practice or conduct in connection with a refund anticipation loan;

(4) Arrange for a creditor to take a security interest in any property of the consumer other than the proceeds of the consumer's tax refund and the account into which that tax refund is deposited to secure payment of the loan; and

(5) Offer a refund anticipation loan that, including any refund anticipation loan fee or any other fee related to the loan or tax preparation, exceeds the amount of the anticipated tax refund.

NEW SECTION. Sec. 7. Any person who knowingly and willfully violates this chapter is guilty of a misdemeanor and shall be fined up to five hundred dollars for each offense.

NEW SECTION. Sec. 8. The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 9. Sections 1 through 8 of this act constitute a new chapter in Title 19 RCW.

Passed by the Senate April 18, 2005.

Passed by the House April 15, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 472

[Senate Bill 5733]

MANDATORY ARBITRATION

AN ACT Relating to mandatory arbitration; amending RCW 7.06.010; reenacting and amending RCW 7.06.020; and creating a new section.

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

Sec. 1. RCW 7.06.010 and 2002 c 338 s 1 are each amended to read as follows:

In counties with a population of more than one hundred (~~(fifty)~~) thousand, mandatory arbitration of civil actions under this chapter shall be required. In counties with a population of one hundred (~~(fifty)~~) thousand or less, the superior court of the county, by majority vote of the judges thereof, or the county legislative authority may authorize mandatory arbitration of civil actions under this chapter.

Sec. 2. RCW 7.06.020 and 1987 c 212 s 101 and 1987 c 202 s 127 are each reenacted and amended to read as follows:

(1) All civil actions, except for appeals from municipal or district courts, which are at issue in the superior court in counties which have authorized arbitration, where the sole relief sought is a money judgment, and where no party asserts a claim in excess of fifteen thousand dollars, or if approved by the superior court of a county by two-thirds or greater vote of the judges thereof, up to (~~(thirty-five)~~) fifty thousand dollars, exclusive of interest and costs, are subject to mandatory arbitration.

(2) If approved by majority vote of the superior court judges of a county which has authorized arbitration, all civil actions which are at issue in the superior court in which the sole relief sought is the establishment, termination or modification of maintenance or child support payments are subject to mandatory arbitration. The arbitrability of any such action shall not be affected by the amount or number of payments involved.

NEW SECTION. Sec. 3. Section 2 of this act applies to any case in which a notice of arbitrability is filed on or after the effective date of this act.

Passed by the Senate April 16, 2005.

Passed by the House April 11, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 473

[Engrossed Substitute Senate Bill 5806]

CHILD CARE PROVIDERS

AN ACT Relating to child care services; amending RCW 74.15.130; adding new sections to chapter 74.15 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature recognizes that child care providers provide valuable services for the families of Washington state and are an important part of ensuring the healthy growth and development of young children. It also recognizes the importance of ensuring that operators of child

day-care centers and family day-care providers are providing safe and quality care and operating in compliance with minimal standards.

The legislature further recognizes that parents, as consumers, have an interest in obtaining access to information that is relevant to making informed decisions about the persons with whom they entrust the care of their children. The purpose of this act is to establish a system, consistent throughout the state, through which parents, guardians, and other persons acting in loco parentis can obtain certain information about child care providers.

NEW SECTION. Sec. 2. A new section is added to chapter 74.15 RCW to read as follows:

For the purposes of this act, "enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 74.15.130(1) or assessment of civil monetary penalties pursuant to RCW 74.15.130(4).

NEW SECTION. Sec. 3. A new section is added to chapter 74.15 RCW to read as follows:

(1) The department shall establish and maintain a toll-free telephone number, and an interactive web-based system through which persons may obtain information regarding child day-care centers and family day-care providers. This number shall be available twenty-four hours a day for persons to request information. The department shall respond to recorded messages left at the number within two business days. The number shall be published in reasonably available printed and electronic media. The number shall be easily identifiable as a number through which persons may obtain information regarding child day-care centers and family day-care providers as set forth in this section.

(2) Through the toll-free telephone line established by this section, the department shall provide information to callers about: (a) Whether a day-care provider is licensed; (b) whether a day-care provider's license is current; (c) the general nature of any enforcement against the providers; (d) how to report suspected or observed noncompliance with licensing requirements; (e) how to report alleged abuse or neglect in a day care; (f) how to report health, safety, and welfare concerns in a day care; (g) how to receive follow-up assistance, including information on the office of the family and children's ombudsman; and (h) how to receive referral information on other agencies or entities that may be of further assistance to the caller.

(3) Beginning in January 2006, the department shall print the toll-free number established by this section on the face of new licenses issued to child day-care centers and family day-care providers.

(4) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.17 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 74.15 RCW to read as follows:

(1) Every child day-care center and family day-care provider shall prominently post the following items, clearly visible to parents and staff:

- (a) The license issued under this chapter;
- (b) The department's toll-free telephone number established by section 3 of this act;

(c) The notice of any pending enforcement action. The notice must be posted immediately upon receipt. The notice must be posted for at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer;

(d) A notice that inspection reports and any notices of enforcement actions for the previous three years are available from the licensee and the department; and

(e) Any other information required by the department.

(2) The department shall disclose, upon request, the receipt, general nature, and resolution or current status of all complaints on record with the department after the effective date of this act against a child day-care center or family day-care provider that result in an enforcement action.

This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.17 RCW.

NEW SECTION. Sec. 5. A new section is added to chapter 74.15 RCW to read as follows:

(1) Every child day-care center and family day-care provider shall have readily available for review by the department, parents, and the public a copy of each inspection report and notice of enforcement action received by the center or provider from the department for the past three years. This subsection only applies to reports and notices received on or after the effective date of this act.

(2) The department shall make available to the public during business hours all inspection reports and notices of enforcement actions involving child day-care centers and family day-care providers consistent with chapter 42.17 RCW. The department shall include in the inspection report a statement of the corrective measures taken by the center or provider.

Sec. 6. RCW 74.15.130 and 1998 c 314 s 6 are each amended to read as follows:

(1) An agency may be denied a license, or any license issued pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended, revoked, modified, or not renewed by the secretary upon proof (a) that the agency has failed or refused to comply with the provisions of chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or (b) that the conditions required for the issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses. RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of a foster family home license, the department's decision shall be upheld if there is reasonable cause to believe that:

(a) The applicant or licensee lacks the character, suitability, or competence to care for children placed in out-of-home care, however, no unfounded report of child abuse or neglect may be used to deny employment or a license;

(b) The applicant or licensee has failed or refused to comply with any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements adopted pursuant to such provisions; or

(c) The conditions required for issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses.

(3) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, other than a foster family home license, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(4) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with the rules adopted under the provisions of this chapter and RCW 74.13.031 or that an agency subject to licensing under this chapter and RCW 74.13.031 is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home. Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance. Civil monetary penalties shall not exceed seventy-five dollars per violation for a family day-care home and two hundred fifty dollars per violation for group homes, child day-care centers, and child-placing agencies. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty. The department shall provide a notification period before a monetary penalty is effective and may forgive the penalty levied if the agency comes into compliance during this period. The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. Chapter 43.20A RCW governs notice of a civil monetary penalty and provides the right of an adjudicative proceeding. The preponderance of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

(5)(a) In addition to or in lieu of an enforcement action being taken, the department may place a child day-care center or family day-care provider on nonreferral status if the center or provider has failed or refused to comply with this chapter or rules adopted under this chapter or an enforcement action has been taken. The nonreferral status may continue until the department determines that: (i) No enforcement action is appropriate; or (ii) a corrective action plan has been successfully concluded.

(b) Whenever a child day-care center or family day-care provider is placed on nonreferral status, the department shall provide written notification to the child day-care center or family day-care provider.

(6) The department shall notify appropriate public and private child care resource and referral agencies of the department's decision to: (a) Take an enforcement action against a child day-care center or family day-care provider; or (b) place or remove a child day-care center or family day-care provider on nonreferral status.

NEW SECTION. Sec. 7. A new section is added to chapter 74.15 RCW to read as follows:

(1) Every licensed child day-care center shall, at the time of licensure or renewal and at any inspection, provide to the department proof that the licensee

has day-care insurance as defined in RCW 48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

(a) Every licensed child day-care center shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) Post at the day-care center, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(b) Liability limits under this subsection shall be the same as set forth in RCW 48.88.050.

(c) The department may take action as provided in RCW 74.15.130 if the licensee fails to maintain in full force and effect the insurance required by this subsection.

(d) This subsection applies to child day-care centers holding licenses, initial licenses, and probationary licenses under this chapter.

(e) A child day-care center holding a license under this chapter on the effective date of this act, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(2)(a) Every licensed family day-care provider shall, at the time of licensure or renewal either:

(i) Provide to the department proof that the licensee has day-care insurance as defined in RCW 48.88.020, or other applicable insurance; or

(ii) Provide written notice of their insurance status to parents with a child enrolled in family day care. Family day-care providers may choose to opt out of the requirement to have day care or other applicable insurance but must provide written notice of their insurance status to parents with a child enrolled and shall not be subject to the requirements of (b), (c), or (d) of this subsection.

(b) Any licensed family day-care provider that provides to the department proof that the licensee has insurance as provided under (a)(i) of this subsection shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) Post at the day-care home, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(c) Liability limits under (a)(i) of this subsection shall be the same as set forth in RCW 48.88.050.

(d) The department may take action as provided in RCW 74.15.130 if the licensee fails to notify the department when coverage has been terminated as required under (b) of this subsection.

(e) A family day-care provider holding a license under this chapter on the effective date of this act is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(3) Noncompliance or compliance with the provisions of this section shall not constitute evidence of liability or nonliability in any injury litigation.

Passed by the Senate April 18, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 474

[Engrossed Substitute Senate Bill 5872]

SOCIAL AND HEALTH SERVICES—DELIVERY TO CHILDREN AND FAMILIES—TASK FORCE

AN ACT Relating to creating the joint task force on the administration and delivery of services to children and families; and creating new sections.

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

NEW SECTION. Sec. 1. A joint task force is created to determine the most appropriate and effective administrative structure for delivery of social and health services to the children and families of the state. The joint task force shall study how best to ensure that an administrative structure has defined lines of responsibility for delivering services to children and families in need and the best means for the public to hold government accountable for delivery of those services. The joint task force shall compare the effectiveness of: Including social and health services to children and families within an umbrella agency, such as the current department of social and health services; establishing a separate agency for social and health services to children and families whose administrator reports directly to the governor; or creating a children and family services cabinet reporting directly to the governor. The joint task force shall, as part of the comparison, examine the administrative structures used in other states to deliver social and health services to children and families.

NEW SECTION. Sec. 2. (1) Membership of the joint task force shall consist of the following:

(a) The dean of the school of social work at the University of Washington or an academic professor from a list recommended by the dean, jointly appointed by the chairs of the house of representatives children and family services committee and the senate human services and corrections committee;

(b) Two members of the house of representatives appointed by the speaker of the house of representatives, one of whom shall be a member of the majority caucus and one of whom shall be a member of the minority caucus, and two members of the senate appointed by the president of the senate, one of whom shall be a member of the majority caucus and one of whom shall be a member of the minority caucus;

(c) The secretary of the department of social and health services or the secretary's designee;

(d) An individual with previous experience as an administrator of a public agency providing services to children and families, jointly appointed by the chairs of the house of representatives children and family services committee and the senate human services and corrections committee;

(e) A juvenile court administrator, jointly appointed by the chairs of the house of representatives children and family services committee and the senate human services and corrections committee;

(f) A family superior court judge, jointly appointed by the chairs of the house of representatives children and family services committee and the senate human services and corrections committee;

(g) The director of the office of the family and children's ombudsman;

(h) A social worker with experience in the public sector serving children and families, jointly appointed by the chairs of the house of representatives children and family services committee and the senate human services and corrections committee; and

(i) Two representatives of community-based providers serving children and families, jointly appointed by the chairs of the house of representatives children and family services committee and the senate human services and corrections committee.

(2) The dean of the school of social work at the University of Washington or the academic professor appointed from a list recommended by the dean shall be the chair of the joint task force.

(3) Staff support for the joint task force shall be provided by the house of representatives office of program research and senate committee services.

(4) Legislative members of the joint task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 3. (1) The joint task force shall make recommendations concerning which administrative structure or structures would best realize efficiencies in administration and best achieve positive outcomes for children and families, including, but not limited to, the following:

(a) Reducing the number of children at risk for abuse or neglect and increasing the safety and well-being of children;

(b) Increasing the ability of families to care for their own children and reducing the number of children in foster care;

(c) Increasing placement stability and permanency for children in out-of-home care and reducing unsafe and inappropriate placements;

(d) Delivering appropriate and timely mental health services;

(e) Providing adequate and appropriate staff training and education;

(f) Promoting foster parent recruitment, training, and retention;

(g) Reducing the frequency and duration of sibling separation;

(h) Delivering adequate and timely services to adolescents; and

(i) Increasing responsibility and accountability for achieving goals.

(2) The joint task force shall also make recommendations concerning the costs, benefits, savings, or reductions in services associated with the various administrative structures considered by the joint task force.

NEW SECTION. Sec. 4. The joint task force shall report its recommendations to the governor and the appropriate committees of the legislature by December 1, 2005.

Passed by the Senate April 18, 2005.

Passed by the House April 7, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 475

[Substitute Senate Bill 5992]

INDUSTRIAL INSURANCE—SECOND INJURY FUND

AN ACT Relating to the industrial injury second injury fund; amending RCW 51.44.040; and creating a new section.

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

Sec. 1. RCW 51.44.040 and 1982 c 63 s 14 are each amended to read as follows:

(1) There shall be in the office of the state treasurer, a fund to be known and designated as the "second injury fund", which shall be used only for the purpose of defraying charges against it as provided in RCW 51.16.120 and 51.32.250(~~as now or hereafter amended. Said~~). The fund shall be administered by the director. The state treasurer shall be the custodian of the second injury fund and shall be authorized to disburse moneys from it only upon written order of the director.

(2) Payments to the second injury fund from the accident fund shall be made pursuant to rules (~~and regulations promulgated~~) adopted by the director.

(3)(a) Assessments for the second injury fund shall be imposed on self-insurers pursuant to rules (~~and regulations promulgated by the director to ensure that self-insurers shall pay to such fund~~) adopted by the director. Such rules shall provide for at least the following:

(i) Except as provided in (a)(ii) of this subsection, the amount assessed each self-insurer must be in the proportion that the payments made from ((such)) the fund on account of claims made against self-insurers bears to the total sum of payments from ((such)) the fund.

(ii) Except as provided in section 2 of this act, beginning with assessments imposed on or after July 1, 2009, the department shall experience rate the amount assessed each self-insurer as long as the aggregate amount assessed is in the proportion that the payments made from the fund on account of claims made against self-insurers bears to the total sum of payments from the fund. The experience rating factor must provide equal weight to the ratio between expenditures made by the second injury fund for claims of the self-insurer to the total expenditures made by the second injury fund for claims of all self-insurers for the prior three fiscal years and the ratio of workers' compensation claim payments under this title made by the self-insurer to the total worker's compensation claim payments made by all self-insurers under this title for the prior three fiscal years. The weighted average of these two ratios must be divided by the latter ratio to arrive at the experience factor.

(b) For purposes of this subsection, "expenditures made by the second injury fund" mean the costs and charges described under RCW 51.32.250 and 51.16.120 (3) and (4), and the amounts assessed to the second injury fund as described under RCW 51.16.120(1). Under no circumstances does "expenditures made by the second injury fund" include any subsequent payments, assessments, or adjustments for pensions, where the applicable second injury fund entitlement was established outside of the three fiscal years.

NEW SECTION. Sec. 2. (1) If the outcome study conducted by the department of labor and industries under subsection (2)(a)(i) or (ii) of this section shows a negative impact of fifteen percent or more to workers following

claim closure among nonpension self-insured claimants, 2005 c . . . s 1 (section 1 of this act) expires June 30, 2013.

(2) The department shall conduct an outcome study of the experience rating system established in 2005 c . . . s 1 (section 1 of this act). In conducting the study, the department must:

(a) Compare the outcomes for workers of self-insured employers whose industrial insurance claims with temporary total disability benefits for more than thirty days are closed between July 1, 2002, and June 30, 2004, with similar claims of workers of self-insured employers closed between July 1, 2009, and June 30, 2011. For the purposes of subsection (1) of this section, the department must provide two separate comparisons of such workers as follows: (i) The first comparison includes the aggregate preinjury wages for all nonpension injured workers compared with their aggregate wages at claim closure in each of the two study groups; and (ii) the second comparison includes the proportion of all nonpension injured workers who are found able to work but have not returned to work, as reported by self-insurers in the eligibility assessment reports submitted to the department on the claims in the first study group, compared with the proportion of such workers who are found able to work but have not returned to work, as reported in the eligibility assessment reports submitted on claims in the second study group;

(b) Study whether the workers potentially impacted by the experience rating program have improved return-to-work outcomes, whether the number of impacted workers found to be employable increases, whether there is a change in long-term disability outcomes among the impacted workers, and whether the number of permanent total disability pensions among impacted workers is affected and, if so, the nature of the impact; and

(c) Develop, in consultation with representatives of the impacted workers and the self-insured community, a study methodology that must be provided to the workers' compensation advisory committee for review and comment. The study methodology must include appropriate controls to account for economic fluctuation, wage inflation, and other independent variables.

(3) The department must report to the appropriate committees of the legislature by December 1, 2012, on the results of the study.

Passed by the Senate April 18, 2005.

Passed by the House April 14, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 476

[Substitute Senate Bill 5999]

BUSINESS AND OCCUPATION TAX—PARKING AND BUSINESS IMPROVEMENT AREAS

AN ACT Relating to the taxation of contracts to administer parking and business improvement areas; adding a new section to chapter 82.04 RCW; and adding a new section to chapter 35.21 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to amounts received by a chamber of commerce or other similar business association for administering the operation of a parking and business improvement area as defined in RCW 35.87A.110.

NEW SECTION. Sec. 2. A new section is added to chapter 35.21 RCW to read as follows:

(1) A city shall not impose a gross receipts tax on amounts received by a chamber of commerce or other similar business association for administering the operation of a parking and business improvement area within the meaning of RCW 35.87A.110.

(2) For the purposes of this section, the following definitions apply:

(a) "Gross receipts tax" means a tax measured by gross proceeds of sales, gross income of the business, or value proceeding or accruing.

(b) "City" includes cities, code cities, and towns.

Passed by the Senate March 16, 2005.

Passed by the House April 19, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 477

[Substitute Senate Bill 6037]

GROWTH MANAGEMENT ACT—PUBLIC FACILITIES—RECREATIONAL USE

AN ACT Relating to connection of limited areas of more intensive rural development for recreational or tourist use to existing public facilities; amending RCW 36.70A.070; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 36.70A.070 and 2004 c 196 s 1 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of ground water used for public water supplies. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those

discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

- (i) Containing or otherwise controlling rural development;
- (ii) Assuring visual compatibility of rural development with the surrounding rural area;

(iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;

(iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and ground water resources; and

(v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5);

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl, such as a connection to an existing sewer line where such connection serves only the recreational or tourist use and is not available to adjacent nonrecreational or nontourist use parcels;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(14). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030(14). Public services and

public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the department of transportation's six-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;

(E) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(F) Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the six-year improvement program developed by the department of transportation as required by RCW 47.05.030;

(C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation

systems management strategies. For the purposes of this subsection (6) "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

(c) The transportation element described in this subsection (6), and the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, RCW 35.58.2795 for public transportation systems, and RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. The element shall include: (a) A summary of the local economy such as population, employment, payroll, sectors, businesses, sales, and other information as appropriate; (b) a summary of the strengths and weaknesses of the local economy defined as the commercial and industrial sectors and supporting factors such as land use, transportation, utilities, education, work force, housing, and natural/cultural resources; and (c) an identification of policies, programs, and projects to foster economic growth and development and to address future needs. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; and (c) an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(9) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

NEW SECTION. Sec. 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.

NEW SECTION. Sec. 3. Section 1 of this act expires August 31, 2005.

Passed by the Senate April 16, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.

CHAPTER 478

[Substitute House Bill 2081]

HOOD CANAL—AQUATIC REHABILITATION ZONE

AN ACT Relating to creating an aquatic rehabilitation zone designation as a framework for Hood Canal recovery programs; adding a new chapter to Title 90 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The legislature finds that Hood Canal is a precious aquatic resource of our state. The legislature finds that Hood Canal is a rich source of recreation, fishing, aquaculture, and aesthetic enjoyment for the citizens of this state. The legislature also finds that Hood Canal has great cultural significance for the tribes in the Hood Canal area. The legislature therefore recognizes Hood Canal's substantial environmental, cultural, economic, recreational, and aesthetic importance in this state.

(2) The legislature finds that Hood Canal is a marine water of the state at significant risk. The legislature finds that Hood Canal has a "dead zone" related to low-dissolved oxygen concentrations, a condition that has recurred for many years. The legislature also finds that this problem and various contributors to the problem were documented in the May 2004 *Preliminary Assessment and Corrective Action Plan* published by the state Puget Sound action team and the Hood Canal coordinating council.

(3) The legislature further finds that significant research, monitoring, and study efforts are currently occurring regarding Hood Canal's low-dissolved oxygen concentrations. The legislature also finds numerous public, private, and community organizations are working to provide public education and identify potential solutions. The legislature recognizes that, while some information and research is now available and some potential solutions have been identified, more research and analysis is needed to fully develop a program to address Hood Canal's low-dissolved oxygen concentrations.

(4) The legislature finds a need exists for the state to take action to address Hood Canal's low-dissolved oxygen concentrations. The legislature also finds establishing an aquatic rehabilitation zone for Hood Canal will serve as a statutory framework for future regulations and programs directed at recovery of this important aquatic resource.

(5) The legislature therefore intends to establish an aquatic rehabilitation zone for Hood Canal as the framework to address Hood Canal's low-dissolved oxygen concentrations. The legislature also intends to incorporate provisions in the new statutory chapter creating the designation as solutions are identified regarding this problem.

NEW SECTION. Sec. 2. (1) Aquatic rehabilitation zones may be designated by the legislature for areas whose surrounding marine water bodies pose serious environmental or public health concerns.

(2) Aquatic rehabilitation zone one is established. Aquatic rehabilitation zone one includes all watersheds that drain to Hood Canal south of a line projected from Tala Point in Jefferson county to Foulweather Bluff in Kitsap county.

NEW SECTION. Sec. 3. This chapter does not apply to forest practices regulated under chapter 76.09 RCW.

NEW SECTION. Sec. 4. This chapter does not alter, diminish, or expand the jurisdictional authorities in other statutes or affect the application of other statutory requirements or programs that do not specifically refer to aquatic rehabilitation zones.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act constitute a new chapter in Title 90 RCW.

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 April 20, 2005.

Passed by the Senate April 15, 2005.

Approved by the Governor May 16, 2005.

Filed in Office of Secretary of State May 16, 2005.

CHAPTER 479

[Engrossed Substitute House Bill 2097]

HOOD CANAL REHABILITATION

AN ACT Relating to establishing a management program for Hood Canal rehabilitation; adding new sections to chapter 90.— RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that Hood Canal is a precious aquatic resource of our state. The legislature finds that Hood Canal is a rich source of recreation, fishing, aquaculture, and aesthetic enjoyment for the citizens of this state. The legislature also finds that Hood Canal has great cultural significance for the tribes in the Hood Canal area. The legislature therefore recognizes Hood Canal's substantial environmental, cultural, economic, recreational, and aesthetic importance to Washington.

(2) The legislature finds that Hood Canal is a marine water of the state at significant risk. The legislature finds that Hood Canal has a "dead zone" related to low-dissolved oxygen concentrations, a condition that has recurred for many years. The legislature also finds this problem and various contributors to the problem were documented in the May 2004 *Preliminary Assessment and Corrective Action Plan* published by the state Puget Sound action team and the Hood Canal coordinating council.

(3) The legislature further finds that significant research, monitoring, and study efforts are currently occurring regarding Hood Canal's low-dissolved oxygen concentrations. The legislature recognizes that federal, state, tribal, and local governments and other organizations and entities are coordinating research, monitoring, and modeling efforts through the Hood Canal low-dissolved oxygen program. The legislature also recognizes that these entities and others are continuing individual efforts to study and identify potential solutions for Hood Canal's low-dissolved oxygen concentrations. The legislature also recognizes numerous public, private, and community organizations are working to provide public education regarding Hood Canal's low-dissolved oxygen concentrations. The legislature recognizes and encourages the continuation of these efforts.

(4) The legislature finds a need exists for the state to provide additional resources to address Hood Canal's low-dissolved oxygen concentrations. The legislature also finds a need exists to designate the state and local entities to develop, coordinate, and administer a Hood Canal rehabilitation program and funding.

NEW SECTION. Sec. 2. (1) The development of a program for rehabilitation of Hood Canal is authorized in Jefferson, Kitsap, and Mason counties within the aquatic rehabilitation zone one.

(2) The Puget Sound action team is designated as the state lead agency for the rehabilitation program authorized in this section.

(3) The Hood Canal coordinating council is designated as the local management board for the rehabilitation program authorized in this section.

(4) The Puget Sound action team and the Hood Canal coordinating council must each approve and must comanage projects under the rehabilitation program authorized in this section.

NEW SECTION. Sec. 3. (1) The Hood Canal coordinating council shall serve as the local management board for aquatic rehabilitation zone one. The local management board shall coordinate local government efforts with respect to the program authorized according to section 2 of this act. In the Hood Canal area, the Hood Canal coordinating council also shall:

(a) Serve as the lead entity and the regional recovery organization for the purposes of chapter 77.85 RCW for Hood Canal summer chum; and

(b) Assist in coordinating activities under chapter 90.82 RCW.

(2) When developing and implementing the program authorized in section 2 of this act and when establishing funding criteria according to subsection (7) of this section, the Puget Sound action team and the local management board shall solicit participation by federal, tribal, state, and local agencies and universities and nonprofit organizations with expertise in areas related to program activities. The local management board may include state and federal agency representatives, or additional persons, as nonvoting management board members or may receive technical assistance and advice from them in other venues. The local management board also may appoint technical advisory committees as needed.

(3) The local management board and the Puget Sound action team shall participate in the development of the program authorized under section 2 of this act.

(4) The local management board and its participating local and tribal governments shall assess concepts for a regional governance structure and shall submit a report regarding the findings and recommendations to the appropriate committees of the legislature by December 1, 2007.

(5) Any of the local management board's participating counties and tribes, any federal, tribal, state, or local agencies, or any universities or nonprofit organizations may continue individual efforts and activities for rehabilitation of Hood Canal. Nothing in this section limits the authority of units of local government to enter into interlocal agreements under chapter 39.34 RCW or any other provision of law.

(6) The local management board may not exercise authority over land or water within the individual counties or otherwise preempt the authority of any units of local government.

(7) The local management board and the Puget Sound action team each may receive and disburse funding for projects, studies, and activities related to Hood Canal's low-dissolved oxygen concentrations. The Puget Sound action team and the local management board shall jointly coordinate a process to prioritize projects, studies, and activities for which the Puget Sound action team receives

state funding specifically allocated for Hood Canal corrective actions to implement this section. The local management board and the Puget Sound action team shall establish criteria for funding these projects, studies, and activities based upon their likely value in addressing and resolving Hood Canal's low-dissolved oxygen concentrations. Final approval for projects under this section requires the consent of both the Puget Sound action team and the local management board. Projects under this section must be comanaged by the Puget Sound action team and the local management board. Nothing in this section prohibits any federal, tribal, state, or local agencies, universities, or nonprofit organizations from receiving funding for specific projects that may assist in the rehabilitation of Hood Canal.

(8) The local management board may hire and fire staff, including an executive director, enter into contracts, accept grants and other moneys, disburse funds, make recommendations to local governments about potential regulations and the development of programs and incentives upon request, pay all necessary expenses, and choose a fiduciary agent.

(9) The local management board shall report its progress on a quarterly basis to the legislative bodies of the participating counties and tribes and the participating state agencies. The local management board also shall submit an annual report describing its efforts and successes in implementing the program established according to section 2 of this act to the appropriate committees of the legislature.

NEW SECTION. Sec. 4. This act does not apply to forest practices regulated under chapter 76.09 RCW.

NEW SECTION. Sec. 5. Nothing in this act provides any regulatory authority to the Puget Sound action team or the Hood Canal coordinating council.

NEW SECTION. Sec. 6. The activities of the Puget Sound action team and the Hood Canal coordinating council required by this act are subject to the availability of amounts appropriated for this specific purpose.

NEW SECTION. Sec. 7. Sections 2 and 3 of this act are each added to chapter 90.— RCW (the new chapter created in Substitute House Bill No. 2081).

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 20, 2005.

Passed by the Senate April 11, 2005.

Approved by the Governor May 16, 2005.

Filed in Office of Secretary of State May 16, 2005.

CHAPTER 480

[Second Substitute House Bill 1240]

REAL ESTATE EXCISE TAX

AN ACT Relating to real estate excise tax fees and electronic processing of affidavits; amending RCW 82.45.180; adding new sections to chapter 82.45 RCW; creating a new section; making an appropriation; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) It is the legislature's intent to provide funding for the development and implementation of an automated system for the electronic processing of the real estate excise tax. The legislature finds that due to the numerous users of the real estate excise tax information, and the many entities involved in its work flow, county systems must be compatible with the automated system developed by the state department of revenue.

(2) The legislature finds that under current law an electronic real estate excise tax affidavit that is signed with a digital signature under chapter 19.34 RCW is a legally valid document and, pursuant to RCW 5.46.010, electronic facsimiles, scanned signatures, and digital and other electronic conversions of written signatures satisfy the signature component of the affidavit requirement under this act.

Sec. 2. RCW 82.45.180 and 1998 c 106 s 11 are each amended to read as follows:

(1)(a) For taxes collected by the county under this chapter, the county treasurer shall collect a ~~((two-dollar))~~ five-dollar fee on all transactions required by this chapter where the transaction does not require the payment of tax. A total of ~~((two))~~ five dollars shall be collected in the form of a tax and fee, where the calculated tax payment is less than ~~((two))~~ five dollars. Through June 30, 2010, the county treasurer shall collect an additional five-dollar fee on all transactions required by this chapter where the transaction does not require the payment of a tax, and on all taxable transactions required by this chapter where the calculated tax payment is less than five dollars. This additional five-dollar fee shall be deposited in the county treasurer's real estate excise tax electronic technology account. Through June 30, 2006, the county treasurer shall place one percent of the ((proceeds of the tax imposed by)) taxes collected by the county under this chapter and the treasurer's fee in the county current expense fund to defray costs of collection ((and)). After June 30, 2006, the county treasurer shall place one and three-tenths percent of the taxes collected by the county under this chapter and the treasurer's fee in the county current expense fund to defray costs of collection. For taxes collected by the county under this chapter before July 1, 2006, the county treasurer shall pay over to the state treasurer and account to the department of revenue for the ((remainder of the)) proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. For taxes collected by the county under this chapter after June 30, 2006, on a monthly basis the county treasurer shall pay over to the state treasurer the month's transmittal. The month's transmittal must be received by the state treasurer by 5:00 p.m. on the last working day of each month. The county treasurer shall account to the department for the month's transmittal by the twentieth day of the month following the month in which the month's transmittal was paid over to the state treasurer. The state treasurer shall deposit the proceeds in the general fund for the support of the common schools.

(b) For purposes of this subsection, the definitions in this subsection apply.

(i) "Close of business" means the time when the county treasurer makes his or her daily deposit of proceeds.

(ii) "Month's transmittal" means all proceeds deposited by the county through the close of business of the day that is two working days before the last

working day of the month. This definition of "month's transmittal" shall not be construed as requiring any change in a county's practices regarding the timing of its daily deposits of proceeds.

(iii) "Proceeds" means moneys collected and receipted by the county from the taxes imposed by this chapter, less the county's share of the proceeds used to defray the county's costs of collection allowable in (a) of this subsection.

(iv) "Working day" means a calendar day, except Saturdays, Sundays, and all legal holidays as provided in RCW 1.16.050.

(2) For taxes collected by the department of revenue under this chapter, the department shall remit the tax to the state treasurer who shall deposit the proceeds of any state tax in the general fund for the support of the common schools. The state treasurer shall deposit the proceeds of any local taxes imposed under chapter 82.46 RCW in the local real estate excise tax account hereby created in the state treasury. Moneys in the local real estate excise tax account may be spent only for distribution to counties, cities, and towns imposing a tax under chapter 82.46 RCW. Except as provided in RCW 43.08.190, all earnings of investments of balances in the local real estate excise tax account shall be credited to the local real estate excise tax account and distributed to the counties, cities, and towns monthly. Monthly the state treasurer shall make distribution from the local real estate excise tax account to the counties, cities, and towns the amount of tax collected on behalf of each taxing authority. The state treasurer shall make the distribution under this subsection without appropriation.

(3)(a) The real estate excise tax electronic technology account is created in the custody of the state treasurer. An appropriation is not required for expenditures and the account is not subject to allotment procedures under chapter 43.88 RCW.

(b) Through June 30, 2010, the county treasurer shall collect an additional five-dollar fee on all taxable transactions required by this chapter. The county treasurer shall remit this fee to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer shall place money from this fee in the real estate excise tax electronic technology account. By the twentieth day of the subsequent month, the state treasurer shall distribute to each county treasurer according to the following formula: Three-quarters of the funds available shall be equally distributed among the thirty-nine counties; and the balance shall be ratably distributed among the counties in direct proportion to their population as it relates to the total state's population based on most recent statistics by the office of financial management.

(c) When received by the county treasurer, the funds shall be placed in a special real estate excise tax electronic technology fund held by the county treasurer to be used exclusively for the development, implementation, and maintenance of an electronic processing and reporting system for real estate excise tax affidavits. Funds may be expended to make the system compatible with the automated real estate excise tax system developed by the department and compatible with the processes used in the offices of the county assessor and county auditor. Any funds held in the account that are not expended by July 1, 2015, revert to the county capital improvements fund in accordance with RCW 82.46.010.

NEW SECTION. Sec. 3. A new section is added to chapter 82.45 RCW to read as follows:

(1) The real estate excise tax grant account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for grants authorized under section 4 of this act in the manner provided for in section 4 of this act.

(2) Any funds remaining in the real estate excise tax grant account on July 1, 2010, shall be deposited in the general fund.

NEW SECTION. Sec. 4. A new section is added to chapter 82.45 RCW to read as follows:

(1) To the extent that funds are appropriated, the department shall administer a grant program for counties to assist in the development, implementation, and maintenance of an electronic processing and reporting system for real estate excise tax affidavits that is compatible with the automated real estate excise tax system developed by the department, and to assist in complying with the requirements of RCW 82.45.180(1).

(2) Subject to the limit in subsection (3) of this section, the amount of the grant shall be equal to the amount paid by a county to:

(a) Purchase computer hardware or software, or to repair or upgrade existing computer hardware or software, used for the electronic processing and reporting of real estate excise tax affidavits and that is compatible with the automated real estate excise tax system developed by the department; and

(b) Make changes to existing software that are necessary to comply with the requirements of RCW 82.45.180(1).

(3) No county is eligible for grants under this section totaling more than one hundred thousand dollars.

(4) No more than three million nine hundred thousand dollars in grants may be awarded under this section.

(5) The source of funds for this grant program is the real estate excise tax grant account created in section 3 of this act.

NEW SECTION. Sec. 5. The sum of three million nine hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2006, from the general fund to the real estate excise tax grant account for the purposes of section 4 of this act.

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 July 1, 2005.

Passed by the House April 20, 2005.

Passed by the Senate April 23, 2005.

Approved by the Governor May 16, 2005.

Filed in Office of Secretary of State May 16, 2005.

CHAPTER 481

[Substitute House Bill 1304]

ANIMAL CRUELTY—ANIMAL FIGHTING

AN ACT Relating to animal cruelty; amending RCW 16.52.205, 16.52.207, and 16.52.117; and prescribing penalties.

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

Sec. 1. RCW 16.52.205 and 1994 c 261 s 8 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) Animal cruelty in the first degree is a class C felony.

Sec. 2. RCW 16.52.207 and 1994 c 261 s 9 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary ((~~food, water,~~) shelter, rest, sanitation, ((~~ventilation,~~) space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or

(b) Abandons the animal.

(3) Animal cruelty in the second degree is a misdemeanor.

(4) In any prosecution of animal cruelty in the second degree, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

Sec. 3. RCW 16.52.117 and 1994 c 261 s 11 are each amended to read as follows:

(1) ((~~Any~~)) A person ((~~who does any of the following is guilty of a gross misdemeanor punishable by imprisonment not to exceed one year, or by a fine not to exceed five thousand dollars, or by both fine and imprisonment~~)) commits the crime of animal fighting if the person knowingly does any of the following:

(a) Owns, possesses, keeps, ((~~or~~)) breeds, trains, buys, sells, or advertises or offers for sale any animal with the intent that the animal shall be engaged in an exhibition of fighting with another animal;

(b) ((~~For amusement or gain causes any animal to fight with another animal, or causes any animals to injure each other; or~~

(e) Permits any act in violation of (a) or (b) of this subsection to be done on any premises under his or her charge or control, or promotes or aids or abets any such act.) Promotes, organizes, conducts, participates in, advertises, or performs any service in the furtherance of an exhibition of animal fighting.

transports spectators to an animal fight, or provides or serves as a stakeholder for any money wagered on an animal fight;

(c) Keeps or uses any place for the purpose of animal fighting, or manages or accepts payment of admission to any place kept or used for the purpose of animal fighting;

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept, or used for the purpose of an exhibition of animal fighting; or

(e) Takes, leads away, possesses, confines, sells, transfers, or receives a stray animal or a pet animal, with the intent to deprive the owner of the pet animal, and with the intent of using the stray animal or pet animal for animal fighting, or for training or baiting for the purpose of animal fighting.

(2) ((Any person who is knowingly present, as a spectator, at any place or building where preparations are being made for an exhibition of the fighting of animals, with the intent to be present at such preparations, or is knowingly present at such exhibition or at any other fighting or injuring as described in subsection (1)(b) of this section, with the intent to be present at such exhibition, fighting, or injuring, is guilty of a misdemeanor.)) A person who violates this section is guilty of a class C felony punishable under RCW 9A.20.021.

(3) Nothing in this section (~~may~~) prohibits the following:

(a) The use of dogs in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of the livestock;

(b) The use of dogs in hunting as permitted by law; or

(c) The training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

(4) For the purposes of this section, "animal" means dogs or male chickens.

Passed by the House April 19, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 16, 2005.

Filed in Office of Secretary of State May 16, 2005.

CHAPTER 482

[Engrossed Substitute House Bill 1635]

AMBULANCE SERVICE

AN ACT Relating to ambulance and emergency medical service funding; amending RCW 35.21.766; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that ambulance and emergency medical services are essential services and the availability of these services is vital to preserving and promoting the health, safety, and welfare of people in local communities throughout the state. All persons, businesses, and industries benefit from the availability of ambulance and emergency medical services, and survival rates can be increased when these services are available, adequately funded, and appropriately regulated. It is the legislature's intent to explicitly recognize local jurisdictions' ability and authority to collect utility service charges to fund ambulance and emergency medical service systems that

are based, at least in some part, upon a charge for the availability of these services.

Sec. 2. RCW 35.21.766 and 2004 c 129 s 34 are each amended to read as follows:

(1) Whenever a regional fire protection service authority (~~(or the legislative authority of any city or town))~~ determines that the fire protection jurisdictions that are members of the authority (~~(or the city or town or a substantial portion of the city or town is))~~ are not adequately served by existing private ambulance service, the governing board of the authority may by resolution (~~(, or the legislative authority of the city or town may by appropriate legislation,))~~ provide for the establishment of a system of ambulance service to be operated by the authority as a public utility (~~(of the city or town, or))~~ operated by contract after a call for bids.

(2) The legislative authority of any city or town may establish an ambulance service to be operated as a public utility. However, the legislative authority of the city or town shall not provide for the establishment of an ambulance service utility that would compete with any existing private ambulance service, unless the legislative authority of the city or town determines that the city or town, or a substantial portion of the city or town, is not adequately served by an existing private ambulance service. In determining the adequacy of an existing private ambulance service, the legislative authority of the city or town shall take into consideration objective generally accepted medical standards and reasonable levels of service which shall be published by the city or town legislative authority. The decision of the city council or legislative body shall be a discretionary, legislative act. When it is preliminarily concluded that the private ambulance service is inadequate, before issuing a call for bids or before the city or town establishes an ambulance service utility, the legislative authority of the city or town shall allow a minimum of sixty days for the private ambulance service to meet the generally accepted medical standards and reasonable levels of service. In the event of a second preliminary conclusion of inadequacy within a twenty-four month period, the legislative authority of the city or town may immediately issue a call for bids or establish an ambulance service utility and is not required to afford the private ambulance service another sixty-day period to meet the generally accepted medical standards and reasonable levels of service. Nothing in this act is intended to supersede requirements and standards adopted by the department of health. A private ambulance service which is not licensed by the department of health or whose license is denied, suspended, or revoked shall not be entitled to a sixty-day period within which to demonstrate adequacy and the legislative authority may immediately issue a call for bids or establish an ambulance service utility.

(3) The city or town legislative authority is authorized to set and collect rates and charges in an amount sufficient to regulate, operate, and maintain an ambulance utility. Prior to setting such rates and charges, the legislative authority must determine, through a cost-of-service study, the total cost necessary to regulate, operate, and maintain the ambulance utility. Total costs shall not include capital cost for the construction, major renovation, or major repair of the physical plant. Once the legislative authority determines the total costs, the legislative authority shall then identify that portion of the total costs that are attributable to the availability of the ambulance service and that portion

of the total costs that are attributable to the demand placed on the ambulance utility.

(a) Availability costs are those costs attributable to the basic infrastructure needed to respond to a single call for service within the utility's response criteria. Availability costs may include costs for dispatch, labor, training of personnel, equipment, patient care supplies, and maintenance of equipment.

(b) Demand costs are those costs that are attributable to the burden placed on the ambulance service by individual calls for ambulance service. Demand costs shall include costs related to frequency of calls, distances from hospitals, and other factors identified in the cost-of-service study conducted to assess burdens imposed on the ambulance utility.

(4) A city or town legislative authority is authorized to set and collect rates and charges as follows:

(a) The rate attributable to costs for availability described under subsection (3)(a) of this section shall be uniformly applied across user classifications within the utility:

(b) The rate attributable to costs for demand described under subsection (3)(b) of this section shall be established and billed to each utility user classification based on each user classification's burden on the utility:

(c) The fee charged by the utility shall reflect a combination of the availability cost and the demand cost:

(d)(i) Except as provided in (d)(ii) of this subsection, the combined rates charged shall reflect an exemption for persons who are medicaid eligible and who reside in a nursing facility, boarding home, adult family home, or receive in-home services. The combined rates charged may reflect an exemption or reduction for designated classes consistent with Article VIII, section 7 of the state Constitution. The amounts of exemption or reduction shall be a general expense of the utility, and designated as an availability cost, to be spread uniformly across the utility user classifications.

(ii) For cities with a population less than two thousand five hundred that established an ambulance utility before May 6, 2004, the combined rates charged may reflect an exemption or reduction for persons who are medicaid eligible, and for designated classes consistent with Article VIII, section 7 of the state Constitution:

(e) The legislative authority must continue to allocate at least seventy percent of the total amount of general fund revenues expended, as of May 5, 2004, toward the total costs necessary to regulate, operate, and maintain the ambulance service utility. However, cities or towns that operated an ambulance service before May 6, 2004, and commingled general fund dollars and ambulance service dollars, may reasonably estimate that portion of general fund dollars that were, as of May 5, 2004, applied toward the operation of the ambulance service, and at least seventy percent of such estimated amount must then continue to be applied toward the total cost necessary to regulate, operate, and maintain the ambulance utility. Cities and towns which first established an ambulance service utility after May 6, 2004, must allocate, from the general fund or emergency medical service levy funds, or a combination of both, at least an amount equal to seventy percent of the total costs necessary to regulate, operate, and maintain the ambulance service utility as of May 5, 2004, or the date that the utility is established:

(f) The legislative authority must allocate available emergency medical service levy funds, in an amount proportionate to the percentage of the ambulance service costs to the total combined operating costs for emergency medical services and ambulance services, towards the total costs necessary to regulate, operate, and maintain the ambulance utility;

(g) The legislative authority must allocate all revenues received through direct billing to the individual user of the ambulance service to the demand-related costs under subsection (3)(b) of this section;

(h) The total revenue generated by the rates and charges shall not exceed the total costs necessary to regulate, operate, and maintain an ambulance utility; and

(i) Revenues generated by the rates and charges must be deposited in a separate fund or funds and be used only for the purpose of paying for the cost of regulating, maintaining, and operating the ambulance utility.

(5) Ambulance service rates charged pursuant to this section do not constitute taxes or charges under RCW 82.02.050 through 82.02.090, or RCW 35.21.768, or charges otherwise prohibited by law.

NEW SECTION. Sec. 3. The joint legislative audit and review committee shall study and review ambulance utilities established and operated by cities under this act. The committee shall examine, but not be limited to, the following factors: The number and operational status of utilities established under this act; whether the utility rate structures and user classifications used by cities were established in accordance with generally accepted utility rate-making practices; and rates charged by the utility to the user classifications. The committee shall provide a final report on this review by December 2007.

Passed by the House April 21, 2005.

Passed by the Senate April 21, 2005.

Approved by the Governor May 16, 2005.

Filed in Office of Secretary of State May 16, 2005.

CHAPTER 483

[Second Substitute House Bill 1758]

PUBLIC DISCLOSURE

AN ACT Relating to public disclosure; amending RCW 42.17.270, 42.17.348, and 42.17.340; reenacting and amending RCW 42.17.300; and adding a new section to chapter 42.17 RCW.

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

Sec. 1. RCW 42.17.270 and 1987 c 403 s 4 are each 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 42.17.260(~~(5)~~) (9) 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. 2. RCW 42.17.300 and 1995 c 397 s 14 and 1995 c 341 s 2 are each reenacted and amended to read as follows:

No fee shall be charged for the inspection of public records. No fee shall be charged for locating public documents and making them available for copying. 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. 3. A new section is added to chapter 42.17 RCW to read as follows:

(1) Each state and local agency shall appoint and publicly identify a public records officer whose responsibility is to serve as a point of contact for members of the public in requesting disclosure of public records and to oversee the agency's compliance with the public records disclosure requirements of this chapter. A state or local agency's public records officer may appoint an employee or official of another agency as its public records officer.

(2) For state agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance with the public records disclosure requirements of this chapter shall be published in the state register at the time of designation and annually every year thereafter.

(3) For local agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance within the public records disclosure requirements of this chapter shall be made in a way reasonably calculated to provide notice to the public, including posting at the local agency's place of business, posting on its internet site, or including in its publications.

Sec. 4. RCW 42.17.348 and 1992 c 139 s 9 are each amended to read as follows:

(1) The attorney general's office shall publish, and update when appropriate, a pamphlet, written in plain language, explaining the provisions of the public records subdivision of this chapter.

(2) The attorney general, by February 1, 2006, shall adopt by rule an advisory model rule for state and local agencies, as defined in RCW 42.17.020, addressing the following subjects:

(a) Providing fullest assistance to requestors;

(b) Fulfilling large requests in the most efficient manner;

(c) Fulfilling requests for electronic records; and

(d) Any other issues pertaining to public disclosure as determined by the attorney general.

(3) The attorney general, in his or her discretion, may from time to time revise the model rule.

Sec. 5. RCW 42.17.340 and 1992 c 139 s 8 are each amended to read as follows:

(1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public record or class of records. The burden of proof shall be on the agency to establish that refusal to permit public inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part of specific information or records.

(2) Upon the motion of any person who believes that an agency has not made a reasonable estimate of the time that the agency requires to respond to a public record request, the superior court in the county in which a record is maintained may require the responsible agency to show that the estimate it provided is reasonable. The burden of proof shall be on the agency to show that the estimate it provided is reasonable.

(3) Judicial review of all agency actions taken or challenged under RCW 42.17.250 through 42.17.320 shall be de novo. Courts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others. Courts may examine any record in camera in any proceeding brought under this section. The court may conduct a hearing based solely on affidavits.

(4) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not less than five dollars and not to exceed one hundred dollars for each day that he or she was denied the right to inspect or copy said public record.

(5) For actions under this section against counties, the venue provisions of RCW 36.01.050 apply.

(6) Actions under this section must be filed within one year of the agency's claim of exemption or the last production of a record on a partial or installment basis.

Passed by the House April 21, 2005.

Passed by the Senate April 21, 2005.

Approved by the Governor May 16, 2005.

Filed in Office of Secretary of State May 16, 2005.

CHAPTER 484

[Engrossed Second Substitute House Bill 2163]

HOMELESS HOUSING AND ASSISTANCE

AN ACT Relating to preventing and ending homelessness in the state of Washington; amending RCW 36.22.178, 36.18.010, 43.185B.005, and 43.185B.009; adding a new section to chapter 36.22 RCW; adding a new chapter to Title 43 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. Despite laudable efforts by all levels of government, private individuals, nonprofit organizations, and charitable foundations to end homelessness, the number of homeless persons in Washington is unacceptably high. The state's homeless population, furthermore, includes a large number of families with children, youth, and employed persons. The legislature finds that the fiscal and societal costs of homelessness are high for both the public and private sectors, and that ending homelessness should be a goal for state and local government.

The legislature finds that there are many causes of homelessness, including a shortage of affordable housing; a shortage of family-wage jobs which undermines housing affordability; a lack of an accessible and affordable health care system available to all who suffer from physical and mental illnesses and chemical and alcohol dependency; domestic violence; and a lack of education and job skills necessary to acquire adequate wage jobs in the economy of the twenty-first century.

The support and commitment of all sectors of the statewide community is critical to the chances of success in ending homelessness in Washington. While the provision of housing and housing-related services to the homeless should be administered at the local level to best address specific community needs, the legislature also recognizes the need for the state to play a primary coordinating, supporting, and monitoring role. There must be a clear assignment of responsibilities and a clear statement of achievable and quantifiable goals. Systematic statewide data collection on homelessness in Washington must be a critical component of such a program enabling the state to work with local governments to count homeless persons and assist them in finding housing.

The systematic collection and rigorous evaluation of homeless data, a search for and implementation through adequate resource allocation of best practices, and the systematic measurement of progress toward interim goals and the ultimate goal of ending homelessness are all necessary components of a statewide effort to end homelessness in Washington by July 1, 2015.

NEW SECTION. Sec. 2. This chapter may be known and cited as the homelessness housing and assistance act.

NEW SECTION. Sec. 3. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, mentally ill people, and sex offenders who are homeless.

(4) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

(5) "Homeless housing account" means the state treasury account receiving the state's portion of income from revenue from the sources established by section 9 of this act.

(6) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the homeless housing account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(7) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(8) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(9) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(10) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(11) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, the director of the department; the secretary of the department of corrections; the secretary of the department of social and health services; the director of the department of veterans affairs; and the secretary of the department of health.

(12) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(13) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(14) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(15) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(16) "Homeless housing plan" means the ten-year plan developed by the county or other local government to address housing for homeless persons.

(17) "Homeless housing strategic plan" means the ten-year plan developed by the department, in consultation with the interagency council on homelessness and the affordable housing advisory board.

****NEW SECTION. Sec. 4. The governor shall establish the interagency council on homelessness and appoint, at least, the director of the department, the secretary of the department of social and health services, the secretary of the department of corrections, the director of the department of veterans affairs, the director of the employment security department, the director of the department of health, and the director of the office of financial management to the council. The interagency council on homelessness shall be responsible to further the goals of the state ten-year homeless housing strategic plan to end homelessness through the following actions:***

(1) Aligning housing and supporting services policies and resources among state agencies;

(2) Identifying and eliminating policies and actions which contribute to homelessness or interfere with its reduction; and

(3) Adopting or recommending new policies to improve practices and align resources, including those policies requested by the affordable housing advisory board or through state and local homeless housing plans.

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

NEW SECTION. Sec. 5. There is created within the department the homeless housing program to develop and coordinate a statewide strategic plan aimed at housing homeless persons. The program shall be developed and administered by the department with advice and input from the affordable housing advisory board established in RCW 43.185B.020.

NEW SECTION. Sec. 6. The department shall annually conduct a Washington homeless census or count consistent with the requirements of RCW 43.63A.655. The census shall make every effort to count all homeless individuals living outdoors, in shelters, and in transitional housing, coordinated, when reasonably feasible, with already existing homeless census projects including those funded in part by the United States department of housing and urban development under the McKinney-Vento homeless assistance program. The department shall determine, in consultation with local governments, the data to be collected.

All personal information collected in the census is confidential, and the department and each local government shall take all necessary steps to protect the identity and confidentiality of each person counted.

The department and each local government are prohibited from disclosing any personally identifying information about any homeless individual when there is reason to believe or evidence indicating that the homeless individual is an adult or minor victim of domestic violence, dating violence, sexual assault, or stalking or is the parent or guardian of a child victim of domestic violence, dating violence, sexual assault, or stalking; or revealing other confidential information regarding HIV/AIDS status, as found in RCW 70.24.105. The department and each local government shall not ask any homeless housing provider to disclose personally identifying information about any homeless individuals when the providers implementing those programs have reason to believe or evidence indicating that those clients are adult or minor victims of domestic violence, dating violence, sexual assault, or stalking or are the parents or guardians of child victims of domestic violence, dating violence, sexual assault, or stalking. Summary data for the provider's facility or program may be substituted.

The Washington homeless census shall be conducted annually on a schedule created by the department. The department shall make summary data by county available to the public each year. This data, and its analysis, shall be included in the department's annual updated homeless housing program strategic plan.

Based on the annual census and provider information from the local government plans, the department shall, by the end of year four, implement an online information and referral system to enable local governments and providers to identify available housing for a homeless person. The department shall work with local governments and their providers to develop a capacity for continuous case management to assist homeless persons.

By the end of year four, the department shall implement an organizational quality management system.

NEW SECTION. Sec. 7. (1) Six months after the first Washington homeless census, the department shall, in consultation with the interagency council on homelessness and the affordable housing advisory board, prepare and publish a ten-year homeless housing strategic plan which shall outline statewide goals and performance measures and shall be coordinated with the plan for homeless families with children required under RCW 43.63A.650. To guide local governments in preparation of their first local homeless housing plans due December 31, 2005, the department shall issue by October 15, 2005, temporary guidelines consistent with this chapter and including the best available data on each community's homeless population. Local governments' ten-year homeless housing plans shall not be substantially inconsistent with the goals and program recommendations of the temporary guidelines and, when amended after 2005, the state strategic plan.

(2) Program outcomes and performance measures and goals shall be created by the department and reflected in the department's homeless housing strategic plan as well as interim goals against which state and local governments' performance may be measured, including:

(a) By the end of year one, completion of the first census as described in section 6 of this act;

(b) By the end of each subsequent year, goals common to all local programs which are measurable and the achievement of which would move that community toward housing its homeless population; and

(c) By July 1, 2015, reduction of the homeless population statewide and in each county by fifty percent.

(3) The department shall develop a consistent statewide data gathering instrument to monitor the performance of cities and counties receiving grants in order to determine compliance with the terms and conditions set forth in the grant application or required by the department.

The department shall, in consultation with the interagency council on homelessness and the affordable housing advisory board, report annually to the governor and the appropriate committees of the legislature an assessment of the state's performance in furthering the goals of the state ten-year homeless housing strategic plan and the performance of each participating local government in creating and executing a local homeless housing plan which meets the requirements of this chapter. The annual report may include performance measures such as:

(a) The reduction in the number of homeless individuals and families from the initial count of homeless persons;

(b) The number of new units available and affordable for homeless families by housing type;

(c) The number of homeless individuals identified who are not offered suitable housing within thirty days of their request or identification as homeless;

(d) The number of households at risk of losing housing who maintain it due to a preventive intervention;

(e) The transition time from homelessness to permanent housing;

(f) The cost per person housed at each level of the housing continuum;

(g) The ability to successfully collect data and report performance;

(h) The extent of collaboration and coordination among public bodies, as well as community stakeholders, and the level of community support and participation;

(i) The quality and safety of housing provided; and

(j) The effectiveness of outreach to homeless persons, and their satisfaction with the program.

(4) Based on the performance of local homeless housing programs in meeting their interim goals, on general population changes and on changes in the homeless population recorded in the annual census, the department may revise the performance measures and goals of the state homeless housing strategic plan, set goals for years following the initial ten-year period, and recommend changes in local governments' plans.

NEW SECTION. Sec. 8. (1) Each local homeless housing task force shall prepare and recommend to its local government legislative authority a ten-year homeless housing plan for its jurisdictional area which shall be not inconsistent with the department's statewide temporary guidelines, for the December 31, 2005, plan, and thereafter the department's ten-year homeless housing strategic plan and which shall be aimed at eliminating homelessness, with a minimum goal of reducing homelessness by fifty percent by July 1, 2015. The local government may amend the proposed local plan and shall adopt a plan by December 31, 2005. Performance in meeting the goals of this local plan shall be assessed annually in terms of the performance measures published by the department. Local plans may include specific local performance measures adopted by the local government legislative authority, and may include

recommendations for any state legislation needed to meet the state or local plan goals.

(2) Eligible activities under the local plans include:

- (a) Rental and furnishing of dwelling units for the use of homeless persons;
- (b) Costs of developing affordable housing for homeless persons, and services for formerly homeless individuals and families residing in transitional housing or permanent housing and still at risk of homelessness;
- (c) Operating subsidies for transitional housing or permanent housing serving formerly homeless families or individuals;
- (d) Services to prevent homelessness, such as emergency eviction prevention programs including temporary rental subsidies to prevent homelessness;
- (e) Temporary services to assist persons leaving state institutions and other state programs to prevent them from becoming or remaining homeless;
- (f) Outreach services for homeless individuals and families;
- (g) Development and management of local homeless plans including homeless census data collection; identification of goals, performance measures, strategies, and costs and evaluation of progress towards established goals;
- (h) Rental vouchers payable to landlords for persons who are homeless or below thirty percent of the median income or in immediate danger of becoming homeless; and
- (i) Other activities to reduce and prevent homelessness as identified for funding in the local plan.

NEW SECTION. Sec. 9. A new section is added to chapter 36.22 RCW to read as follows:

(1) In addition to the surcharge authorized in RCW 36.22.178, and except as provided in subsection (2) of this section, an additional surcharge of ten dollars shall be charged by the county auditor for each document recorded, which will be in addition to any other charge allowed by law. The funds collected pursuant to this section are to be distributed and used as follows:

(a) The auditor shall retain two percent for collection of the fee, and of the remainder shall remit sixty percent to the county to be deposited into a fund that must be used by the county and its cities and towns to accomplish the purposes of this act, six percent of which may be used by the county for administrative costs related to its homeless housing plan, and the remainder for programs which directly accomplish the goals of the county's homeless housing plan, except that for each city in the county which elects as authorized in section 12 of this act to operate its own homeless housing program, a percentage of the surcharge assessed under this section equal to the percentage of the city's local portion of the real estate excise tax collected by the county shall be transmitted at least quarterly to the city treasurer, without any deduction for county administrative costs, for use by the city for program costs which directly contribute to the goals of the city's homeless housing plan; of the funds received by the city, it may use six percent for administrative costs for its homeless housing program.

(b) The auditor shall remit the remaining funds to the state treasurer for deposit in the homeless housing account. The department may use twelve and one-half percent of this amount for administration of the program established in section 5 of this act, including the costs of creating the statewide homeless housing strategic plan, measuring performance, providing technical assistance to

local governments, and managing the homeless housing grant program. The remaining eighty-seven and one-half percent is to be distributed by the department to local governments through the homeless housing grant program.

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

NEW SECTION. Sec. 10. The homeless housing account is created in the custody of the state treasurer. The state's portion of the surcharge established in section 9 of this act must be deposited in the account. Expenditures from the account may be used only for the homeless housing program as described in this chapter. 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.

NEW SECTION. Sec. 11. (1) During each calendar year in which moneys from the homeless housing account are available for use by the department for the homeless housing grant program, the department shall announce to all Washington counties, participating cities, and through major media throughout the state, a grant application period of at least ninety days' duration. This announcement will be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds, less appropriate administrative costs of the department as described in section 9 of this act.

(2) The department will develop, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, criteria to evaluate grant applications.

(3) The department may approve applications only if they are consistent with the local and state homeless housing program strategic plans. The department may give preference to applications based on some or all of the following criteria:

(a) The total homeless population in the applicant local government service area, as reported by the most recent annual Washington homeless census;

(b) Current local expenditures to provide housing for the homeless and to address the underlying causes of homelessness as described in section 1 of this act;

(c) Local government and private contributions pledged to the program in the form of matching funds, property, infrastructure improvements, and other contributions; and the degree of leveraging of other funds from local government or private sources for the program for which funds are being requested, to include recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Construction projects or rehabilitation that will serve homeless individuals or families for a period of at least twenty-five years;

(e) Projects which demonstrate serving homeless populations with the greatest needs, including projects that serve special needs populations;

(f) The degree to which the applicant project represents a collaboration between local governments, nonprofit community-based organizations, local and state agencies, and the private sector, especially through its integration with the

coordinated and comprehensive plan for homeless families with children required under RCW 43.63A.650;

(g) The cooperation of the local government in the annual Washington homeless census project;

(h) The commitment of the local government and any subcontracting local governments, nonprofit organizations, and for-profit entities to employ a diverse work force;

(i) The extent, if any, that the local homeless population is disproportionate to the revenues collected under this chapter, RCW 36.22.178, and section 9 of this act; and

(j) Other elements shown by the applicant to be directly related to the goal and the department's state strategic plan.

NEW SECTION. Sec. 12. (1) Only a local government is eligible to receive a homeless housing grant from the homeless housing account. Any city may assert responsibility for homeless housing within its borders if it so chooses, by forwarding a resolution to the legislative authority of the county stating its intention and its commitment to operate a separate homeless housing program. The city shall then receive a percentage of the surcharge assessed under section 9 of this act equal to the percentage of the city's local portion of the real estate excise tax collected by the county. A participating city may also then apply separately for homeless housing program grants. A city choosing to operate a separate homeless housing program shall be responsible for complying with all of the same requirements as counties and shall adopt a local homeless housing plan meeting the requirements of this chapter for county local plans. However, the city may by resolution of its legislative authority accept the county's homeless housing task force as its own and based on that task force's recommendations adopt a homeless housing plan specific to the city.

(2) Local governments applying for homeless housing funds may subcontract with any other local government, housing authority, community action agency or other nonprofit organization for the execution of programs contributing to the overall goal of ending homelessness within a defined service area. All subcontracts shall be consistent with the local homeless housing plan adopted by the legislative authority of the local government, time limited, and filed with the department and shall have specific performance terms. While a local government has the authority to subcontract with other entities, the local government continues to maintain the ultimate responsibility for the homeless housing program within its borders.

(3) A county may decline to participate in the program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution shall also be transmitted to the county auditor and treasurer. If such a resolution is adopted, all of the funds otherwise due to the county under section 10 of this act shall be remitted monthly to the state treasurer for deposit in the homeless housing account, without any reduction by the county for collecting or administering the funds. Upon receipt of the resolution, the department shall promptly begin to identify and contract with one or more entities eligible under this section to create and execute a local homeless housing plan for the county meeting the requirements of this chapter. The department shall expend all of the funds received from the county under this subsection to carry out the purposes of

this act in the county, provided that the department may retain six percent of these funds to offset the cost of managing the county's program.

(4) A resolution by the county declining to participate in the program shall have no effect on the ability of each city in the county to assert its right to manage its own program under this chapter, and the county shall monthly transmit to the city the funds due under this chapter.

NEW SECTION. Sec. 13. The department shall allocate grant moneys from the homeless housing account to finance in whole or in part programs and projects in approved local homeless housing plans to assist homeless individuals and families gain access to adequate housing, prevent at-risk individuals from becoming homeless, address the root causes of homelessness, track and report on homeless-related data, and facilitate the movement of homeless or formerly homeless individuals along the housing continuum toward more stable and independent housing. The department may issue criteria or guidelines to guide local governments in the application process.

NEW SECTION. Sec. 14. The department shall provide technical assistance to any participating local government that requests such assistance. Technical assistance activities may include:

(1) Assisting local governments to identify appropriate parties to participate on local homeless housing task forces;

(2) Assisting local governments to identify appropriate service providers with which the local governments may subcontract for service provision and development activities, when necessary;

(3) Assisting local governments to implement or expand homeless census programs to meet homeless housing program requirements;

(4) Assisting in the identification of "best practices" from other areas;

(5) Assisting in identifying additional funding sources for specific projects; and

(6) Training local government and subcontractor staff.

NEW SECTION. Sec. 15. The department shall establish a uniform process for participating local governments to report progress toward reducing homelessness and meeting locally established goals.

NEW SECTION. Sec. 16. The department may adopt such rules as may be necessary to effect the purposes of this chapter.

NEW SECTION. Sec. 17. The department shall ensure that the state's interest is protected upon the development, use, sale, or change of use of projects constructed, acquired, or financed in whole or in part through the homeless housing grant program. These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project, or (2) requiring a lump sum repayment of the grant upon the sale or change of use of the project.

Sec. 18. RCW 36.22.178 and 2002 c 294 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a surcharge of ten dollars per instrument shall be charged by the county auditor for each document recorded, which will be in addition to any other charge authorized by law. The ~~((auditor))~~ county may retain up to five percent of these funds collected ~~((to~~

~~administer~~) solely for the collection, administration, and local distribution of these funds. Of the remaining funds, forty percent of the revenue generated through this surcharge will be transmitted monthly to the state treasurer who will deposit the funds into the Washington housing trust account. The office of community development of the department of community, trade, and economic development will develop guidelines for the use of these funds to support building operation and maintenance costs of housing projects or units within housing projects that are affordable to extremely low-income persons with incomes at or below thirty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses. (~~Sixty percent of the revenue~~) All of the remaining funds generated by this surcharge will be retained by the county and be deposited into a fund that must be used by the county and its cities and towns for housing projects or units within housing projects that are affordable to very low-income persons with incomes at or below fifty percent of the area median income. The portion of the surcharge retained by a county shall be allocated to very low-income housing projects or units within such housing projects in the county and the cities within a county according to an interlocal agreement between the county and the cities within the county, consistent with countywide and local housing needs and policies. The funds generated with this surcharge shall not be used for construction of new housing if at any time the vacancy rate for available low-income housing within the county rises above ten percent. The vacancy rate for each county shall be developed using the state low-income vacancy rate standard developed under subsection (3) of this section. (~~Permissible~~) Uses of these local funds are limited to:

(a) Acquisition, construction, or rehabilitation of housing projects or units within housing projects that are affordable to very low-income persons with incomes at or below fifty percent of the area median income;

(b) Supporting building operation and maintenance costs of housing projects or units within housing projects (~~built with~~) eligible to receive housing trust funds, that are affordable to very low-income persons with incomes at or below fifty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses;

(c) Rental assistance vouchers for housing projects or units within housing projects that are affordable to very low-income persons with incomes at or below fifty percent of the area median income, to be administered by a local public housing authority or other local organization that has an existing rental assistance voucher program, consistent with the United States department of housing and urban development's section 8 rental assistance voucher program standards; and

(d) Operating costs for emergency shelters and licensed overnight youth shelters.

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

(3) The real estate research center at Washington State University shall develop a vacancy rate standard for low-income housing in the state as described in RCW 18.85.540(1)(i).

Sec. 19. RCW 36.18.010 and 2002 c 294 s 3 are each amended to read as follows:

County auditors or recording officers shall collect the following fees for their official services:

For recording instruments, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

For preparing and certifying copies, for the first page eight and one-half by fourteen inches or less, three dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

For preparing noncertified copies, for each page eight and one-half by fourteen inches or less, one dollar;

For administering an oath or taking an affidavit, with or without seal, two dollars;

For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five-dollar fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund plus an additional ten-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

For searching records per hour, eight dollars;

For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of twenty-five dollars per plat;

For recording of miscellaneous records not listed above, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170(-);

For recording an emergency nonstandard document as provided in RCW 65.04.047, fifty dollars, in addition to all other applicable recording fees(-);

For recording instruments, a surcharge as provided in RCW 36.22.178; and

For recording instruments, except for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, a surcharge as provided in section 9 of this act.

NEW SECTION. Sec. 20. The department of social and health services shall exempt payments to individuals provided under this chapter when determining eligibility for public assistance.

NEW SECTION. Sec. 21. This chapter does not require either the department or any local government to expend any funds to accomplish the

goals of this chapter other than the revenues authorized in this act. However, neither the department nor any local government may use any funds authorized in this act to supplant or reduce any existing expenditures of public money for the reduction or prevention of homelessness or services for homeless persons.

Sec. 22. RCW 43.185B.005 and 1993 c 478 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) Housing is of vital statewide importance to the health, safety, and welfare of the residents of the state;

(b) Reducing homelessness and moving individuals and families toward stable, affordable housing is of vital statewide importance;

(c) Safe, affordable housing is an essential factor in stabilizing communities;

~~((e))~~ (d) Residents must have a choice of housing opportunities within the community where they choose to live;

~~((d))~~ (e) Housing markets are linked to a healthy economy and can contribute to the state's economy;

~~((e))~~ (f) Land supply is a major contributor to the cost of housing;

~~((f))~~ (g) Housing must be an integral component of any comprehensive community and economic development strategy;

~~((g))~~ (h) State and local government must continue working cooperatively toward the enhancement of increased housing units by reviewing, updating, and removing conflicting regulatory language;

~~((h))~~ (i) State and local government should work together in developing creative ways to reduce the shortage of housing;

~~((i))~~ (j) The lack of a coordinated state housing policy inhibits the effective delivery of housing for some of the state's most vulnerable citizens and those with limited incomes; and

~~((j))~~ (k) It is in the public interest to adopt a statement of housing policy objectives.

(2) The legislature declares that the purposes of the Washington housing policy act are to:

(a) Provide policy direction to the public and private sectors in their attempt to meet the shelter needs of Washington residents;

(b) Reevaluate housing and housing-related programs and policies in order to ensure proper coordination of those programs and policies to meet the housing needs of Washington residents;

(c) Improve the delivery of state services and assistance to very low-income and low-income households and special needs populations;

(d) Strengthen partnerships among all levels of government, and the public and private sectors, including for-profit and nonprofit organizations, in the production and operation of housing to targeted populations including low-income and moderate-income households;

(e) Increase the supply of housing for persons with special needs;

(f) Encourage collaborative planning with social service providers;

(g) Encourage financial institutions to increase residential mortgage lending; and

(h) Coordinate housing into comprehensive community and economic development strategies at the state and local level.

Sec. 23. RCW 43.185B.009 and 1993 c 478 s 3 are each amended to read as follows:

The objectives of the Washington housing policy act shall be to attain the state's goal of a decent home in a healthy, safe environment for every resident of the state by strengthening public and private institutions that are able to:

(1) Develop an adequate and affordable supply of housing for all economic segments of the population, including the destitute;

(2) Identify and reduce the causal factors preventing the state from reaching its goal;

(3) Assist very low-income and special needs households who cannot obtain affordable, safe, and adequate housing in the private market;

~~((3))~~ (4) Encourage and maintain home ownership opportunities;

~~((4))~~ (5) Reduce life-cycle housing costs while preserving public health and safety;

~~((5))~~ (6) Preserve the supply of existing affordable housing;

~~((6))~~ (7) Provide housing for special needs populations;

~~((7))~~ (8) Ensure fair and equal access to the housing market;

~~((8))~~ (9) Increase the availability of mortgage credit at low interest rates; and

~~((9))~~ (10) Coordinate and be consistent with the goals, objectives, and required housing element of the comprehensive plan in the state's growth management act in RCW 36.70A.070.

NEW SECTION. Sec. 24. 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. 25. This act takes effect August 1, 2005.

NEW SECTION. Sec. 26. Sections 1 through 8, 10 through 17, 20, 21, 24, and 25 of this act constitute a new chapter in Title 43 RCW.

Passed by the House April 19, 2005.

Passed by the Senate April 7, 2005.

Approved by the Governor May 16, 2005, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 16, 2005.

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

"I am returning, without my approval as to Section 4, Engrossed Second Substitute House Bill No. 2163 entitled:

"AN ACT Relating to preventing and ending homelessness in the state of Washington."

Section 4 requires the Governor to create a cabinet level interagency council to include at least seven state agencies. The section specifies that membership is to consist of the directors of those agencies, and does not offer latitude for those directors to delegate membership to staff. Unfortunately, the interagency council is just one of many work groups the Legislature has proposed this year requiring cabinet directors to participate in certain activities. Agency directors cannot do everything themselves and must be allowed to appropriately delegate certain tasks to staff.

Although I am vetoing this section, I am directing the directors of each of the seven agencies named in Section 4 of this bill to ensure that a senior staff member from their agency is clearly designated as that agency's lead on homelessness issues and designated to coordinate with the staff at the Department of Community Trade and Economic Development who will be developing the state's homeless housing plan.

For these reasons, I have vetoed sections 4 of Engrossed Second Substitute House Bill No. 2163.

With the exception of sections 4, Engrossed Second Substitute House Bill No. 2163 is approved."

CHAPTER 485

[Substitute Senate Bill 5767]

HOMELESS HOUSING TASK FORCE

AN ACT Relating to developing plans to address the housing needs of homeless persons; and adding a new section to chapter 43.— RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.— RCW (created in HB 2163, as amended) to read as follows:

(1) Each county shall create a homeless housing task force to develop a ten-year homeless housing plan addressing short-term and long-term housing for homeless persons.

Membership on the task force may include representatives of the counties, cities, towns, housing authorities, civic and faith organizations, schools, community networks, human services providers, law enforcement personnel, criminal justice personnel, including prosecutors, probation officers, and jail administrators, substance abuse treatment providers, mental health care providers, emergency health care providers, businesses, at-large representatives of the community, and a homeless or formerly homeless individual.

In lieu of creating a new task force, a local government may designate an existing governmental or nonprofit body which substantially conforms to this section and which includes at least one homeless or formerly homeless individual to serve as its homeless representative. As an alternative to a separate plan, two or more local governments may work in concert to develop and execute a joint homeless housing plan, or to contract with another entity to do so according to the requirements of this chapter. While a local government has the authority to subcontract with other entities, the local government continues to maintain the ultimate responsibility for the homeless housing program within its borders.

A county may decline to participate in the program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution shall also be transmitted to the county auditor and treasurer. If a county declines to participate, the department shall create and execute a local homeless housing plan for the county meeting the requirements of this chapter.

(2) In addition to developing a ten-year homeless housing plan, each task force shall establish guidelines consistent with the statewide homeless housing strategic plan, as needed, for the following:

- (a) Emergency shelters;
- (b) Short-term housing needs;
- (c) Temporary encampments;

- (d) Supportive housing for chronically homeless persons; and
- (e) Long-term housing.

Guidelines must include, when appropriate, standards for health and safety and notifying the public of proposed facilities to house the homeless.

(3) Each county, including counties exempted from creating a new task force under subsection (1) of this section, shall report to the department of community, trade, and economic development such information as may be needed to ensure compliance with this chapter.

Passed by the Senate April 18, 2005.

Passed by the House April 7, 2005.

Approved by the Governor May 16, 2005.

Filed in Office of Secretary of State May 16, 2005.

CHAPTER 486

[House Bill 2170]

REAL ESTATE EXCISE TAX—COMMON SCHOOLS—GENERAL FUND

AN ACT Relating to including a portion of the real estate excise tax as general state revenue; amending RCW 82.45.180; and creating a new section.

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

NEW SECTION. Sec. 1. Over the past decade, traditional school construction funding sources, such as timber revenues, have been declining, while the demand for school facility construction and improvements have been increasing. Washington's youth deserve safe, healthy, and supportive learning environments to help meet their educational needs. To increase state assistance for local school construction projects, the legislature expects to rely more on state bonding authority. The purpose of this act is to expand the constitutional definition of general state revenues by removing the dedication of a portion of the real estate excise tax for common schools. Nothing in this act is intended to affect the state's current efforts to support common schools in the state's omnibus appropriations act.

Sec. 2. RCW 82.45.180 and 1998 c 106 s 11 are each amended to read as follows:

(1) For taxes collected by the county under this chapter, the county treasurer shall collect a two-dollar fee on all transactions required by this chapter where the transaction does not require the payment of tax. A total of two dollars shall be collected in the form of a tax and fee, where the calculated tax payment is less than two dollars. The county treasurer shall place one percent of the proceeds of the tax imposed by this chapter and the treasurer's fee in the county current expense fund to defray costs of collection and shall pay over to the state treasurer and account to the department of revenue for the remainder of the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. The state treasurer shall deposit the proceeds in the general fund (~~(for the support of the common schools)~~).

(2) For taxes collected by the department of revenue under this chapter, the department shall remit the tax to the state treasurer who shall deposit the proceeds of any state tax in the general fund (~~(for the support of the common schools)~~). The state treasurer shall deposit the proceeds of any local taxes

imposed under chapter 82.46 RCW in the local real estate excise tax account hereby created in the state treasury. Moneys in the local real estate excise tax account may be spent only for distribution to counties, cities, and towns imposing a tax under chapter 82.46 RCW. Except as provided in RCW 43.08.190, all earnings of investments of balances in the local real estate excise tax account shall be credited to the local real estate excise tax account and distributed to the counties, cities, and towns monthly. Monthly the state treasurer shall make distribution from the local real estate excise tax account to the counties, cities, and towns the amount of tax collected on behalf of each taxing authority. The state treasurer shall make the distribution under this subsection without appropriation.

Passed by the House March 9, 2005.

Passed by the Senate April 23, 2005.

Approved by the Governor May 16, 2005.

Filed in Office of Secretary of State May 16, 2005.

CHAPTER 487

[Engrossed Substitute House Bill 2299]

GENERAL OBLIGATION BONDS

AN ACT Relating to state general obligation bonds and related accounts; amending RCW 28B.14H.050, 39.53.120, 43.99K.030, and 67.40.060; adding a new chapter to Title 43 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriation acts for the 2003-2005 and 2005-2007 fiscal bienniums, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion four hundred thirty-four million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

NEW SECTION. Sec. 2. The proceeds from the sale of the bonds authorized in section 1 of this act shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) One billion two hundred thirty-four million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-five million dollars to the outdoor recreation account created by RCW 79A.25.060;

(3) Twenty-five million dollars to the habitat conservation account created by RCW 79A.15.020;

(4) One hundred eight million two hundred thousand dollars to the state taxable building construction account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary to issue more than the amount specified in this subsection (4) as

taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation.

NEW SECTION. Sec. 3. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in section 2 (1), (2), (3), and (4) of this act.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in section 2 (1), (2), (3), and (4) of this act.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of section 2 (1), (2), (3), and (4) of this act the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. Sec. 4. (1) Bonds issued under sections 1 through 3 of this act shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

NEW SECTION. Sec. 5. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 1 of this act, and sections 2 and 3 of this act shall not be deemed to provide an exclusive method for the payment.

Sec. 6. RCW 28B.14H.050 and 2003 1st sp.s. c 18 s 7 are each amended to read as follows:

(1)(a) The proceeds from the sale of the bonds authorized in RCW 28B.14H.020 shall be deposited in the Gardner-Evans higher education construction account created in RCW 28B.14H.110.

(b) If the state finance committee deems it necessary to issue the bonds authorized in RCW 28B.14H.020 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be deposited to the state taxable building construction account in lieu of any deposit otherwise provided by this section. The state treasurer shall submit written notice to the

director of financial management if it is determined that any such deposit to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

(2) The proceeds shall be used exclusively for the purposes in RCW 28B.14H.020 and for the payment of the expenses incurred in connection with the sale and issuance of the bonds.

Sec. 7. RCW 39.53.120 and 1999 c 230 s 11 are each amended to read as follows:

(1) Except as specifically provided in this chapter, refunding bonds issued under this chapter shall be issued in accordance with the provisions of law applicable to the type of bonds of the issuer to be refunded, at the time of the issuance of either the refunding bonds or the bonds to be refunded.

(2) For all refunding bonds previously or hereafter issued by the state of Washington under this chapter, the state treasurer shall transfer from the designated funds or accounts the amount necessary for the payment of principal of and interest on the refunding bonds to the applicable bond retirement account for such refunding bonds on each date on which the interest or principal and interest payment is due on such refunding bonds unless an earlier transfer date, as determined by the state finance committee, is necessary or appropriate to the financial framework of the refunding bonds.

Sec. 8. RCW 43.99K.030 and 1997 c 456 s 23 are each amended to read as follows:

(1)(a) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020 (1), (2), and (3).

(b) The debt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020(4).

(c) The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020(5).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. (~~Not less than thirty days prior to the~~) On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account, debt-limit reimbursable bond retirement account, nondebt-limit reimbursable bond retirement account, as necessary, an amount equal to the amount certified by the state finance committee to be due on the payment date.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99K.020(4), the state treasurer shall transfer from the public safety and education account to the general fund of the state treasury the amount computed in subsection (2) of this section for the bonds issued for the purposes of RCW 43.99K.020(4).

(4) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99K.020(5), the board of

regents of the University of Washington shall cause to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the general fund of the state treasury the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99K.020(5).

(5) Bonds issued under this section and RCW 43.99K.010 and 43.99K.020 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(6) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

Sec. 9. RCW 67.40.060 and 1997 c 456 s 25 are each amended to read as follows:

The nondebt-limit proprietary appropriated bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 67.40.030.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. ~~((Not less than thirty days prior to the))~~ On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit proprietary appropriated bond retirement account an amount equal to the amount certified by the state finance committee to be due on that payment date. On each date on which any interest or principal and interest is due, the state treasurer shall cause an identical amount to be paid out of the state convention and trade center account, or state convention and trade center operations account, from the proceeds of the special excise tax imposed under RCW 67.40.090, operating revenues of the state convention and trade center, and bond proceeds and earnings on the investment of bond proceeds, for deposit in the general fund of the state treasury. Any deficiency in such transfer shall be made up as soon as special excise taxes are available for transfer and shall constitute a continuing obligation of the state convention and trade center account until all deficiencies are fully paid.

Bonds issued under RCW 67.40.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

NEW SECTION. Sec. 10. Sections 1 through 5 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 12. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 22, 2005.

Passed by the Senate April 24, 2005.

Approved by the Governor May 16, 2005.

Filed in Office of Secretary of State May 16, 2005.

CHAPTER 488

[Engrossed Substitute Senate Bill 6094]

CAPITAL BUDGET

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending RCW 43.135.045, 43.88.032, 28B.50.360, 43.155.050, and 70.105D.070; amending 2003 1st sp.s. c 26 ss 115, 124, 131, 240, 330, 403, and 421 (uncodified); amending 2004 c 277 ss 201, 110, 209, 221, 262, 236, 911, and 904 (uncodified); adding new sections to 2004 c 277 (uncodified); creating new sections; repealing 2003 1st sp.s. c 26 s 603 (uncodified); repealing 2004 c 277 s 302 (uncodified); providing an effective date; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. A capital budget is hereby adopted and, subject to the provisions set forth in this act, the several dollar amounts hereinafter specified, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for capital projects during the period beginning with the effective date of this act and ending June 30, 2007, out of the several funds specified in this act.

PART 1 GENERAL GOVERNMENT

NEW SECTION. Sec. 101. FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

Capital Budget Studies (04-1-950)

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are provided solely to refresh preservation information that resides in the state's comparable framework for higher education buildings (report 03-1) including any necessary revisions and/or adjustments that will enable more direct translation of information, updates for last renewal or replacement of major systems, and quality assurance field sampling. In executing this continued capital study, the joint legislative audit and review committee shall consult the office of financial management and the higher education coordinating board about its workplan to ensure timely delivery of assembled facilities information and related capital models in an easy to understand format. As a general condition upon appropriations provided to higher education agencies in this act, the state board for community and technical colleges and each state baccalaureate institution shall provide requested facilities information in a timely manner to enable the joint legislative audit and review committee to complete the above task and oversight so assigned.

Reappropriation:

State Building Construction Account—State \$120,000

Appropriation:

Education Construction Account—State \$200,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$320,000

NEW SECTION. Sec. 102. FOR THE OFFICE OF THE SECRETARY OF STATE

TVW - Digital Equipment (06-4-003)

Appropriation:

State Building Construction Account—State \$3,000,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$3,000,000

NEW SECTION. Sec. 103. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Rural Washington Loan Fund (88-2-002)

Reappropriation:

State Building Construction Account—State \$558,000

Rural Washington Loan Account—State \$3,522,235

Subtotal Reappropriation \$4,080,235

Prior Biennia (Expenditures) \$3,570,132

Future Biennia (Projected Costs) \$0

TOTAL \$7,650,367

NEW SECTION. Sec. 104. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Rural Washington Loan Fund (06-4-010)

Appropriation:

Rural Washington Loan Account—State \$4,126,905

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$32,096,207

TOTAL \$36,223,112

NEW SECTION. Sec. 105. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water Assistance Program (00-2-007)

Reappropriation:

Drinking Water Assistance Account—State \$2,792,784

Prior Biennia (Expenditures) \$4,907,216

Future Biennia (Projected Costs) \$0

TOTAL \$7,700,000

NEW SECTION. Sec. 106. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water Assistance Program (02-4-008)

Reappropriation:

Drinking Water Assistance Account—State	\$4,475,621
Prior Biennia (Expenditures)	\$3,224,379
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,700,000

NEW SECTION. Sec. 107. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water Assistance Account (04-4-002)

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

(1) Expenditures of the reappropriation must comply with RCW 70.119A.170.

(2)(a) The state building construction account reappropriation is provided solely to provide assistance to counties, cities, and special purpose districts to identify, acquire, and rehabilitate public water systems that have water quality problems or have been allowed to deteriorate to a point where public health is an issue. Eligibility is confined to applicants that already own at least one group A public water system and that demonstrate a track record of sound drinking water utility management. Funds may be used for: Planning, design, and other preconstruction activities; system acquisition; and capital construction costs.

(b) The state building construction account reappropriation must be jointly administered by the department of health, the public works board, and the department of community, trade, and economic development using the drinking water state revolving fund loan program as an administrative model. In order to expedite the use of these funds and minimize administration costs, this reappropriation must be administered by guidance, rather than rule. Projects must generally be prioritized using the drinking water state revolving fund loan program criteria. All financing provided through this program must be in the form of grants that must partially cover project costs. The maximum grant to any eligible entity may not exceed twenty-five percent of the funds allocated to the appropriation in section 201, chapter 277, Laws of 2004.

Reappropriation:

Drinking Water Assistance Account—State	\$8,500,000
State Building Construction Account—State	\$3,749,753
Drinking Water Assistance Repayment Account—State	\$4,200,000
Subtotal Reappropriation	\$16,449,753
Prior Biennia (Expenditures)	\$250,247
Future Biennia (Projected Costs)	\$0
TOTAL	\$16,700,000

NEW SECTION. Sec. 108. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water SRF - Authorization to Use Loan Repayments (04-4-010)

Reappropriation:

Drinking Water Assistance Repayment Account—State	\$15,200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,200,000

NEW SECTION. Sec. 109. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water Assistance Program (06-4-003)

Appropriation:

Drinking Water Assistance Account—State	\$8,100,000
Drinking Water Assistance Repayment Account—State	\$11,500,000
Subtotal Appropriation	\$19,600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$78,400,000
TOTAL	\$98,000,000

NEW SECTION. Sec. 110. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Water System Acquisition and Rehabilitation Program (06-4-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation must be jointly administered by the department of health, the public works board, and the department of community, trade, and economic development using the drinking water state revolving fund loan program as an administrative model. In order to expedite the use of these funds and minimize administration costs, this appropriation must be administered by guidance, rather than rule. Projects must generally be prioritized using the drinking water state revolving fund loan program criteria. All financing provided through this program must be in the form of grants that must partially cover project costs. The maximum grant to any eligible entity may not exceed twenty-five percent of the funds allocated to this appropriation.

Appropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 111. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Building for the Arts (04-4-007)

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

- (1) The reappropriation is subject to the provisions of RCW 43.63A.750.
- (2) The reappropriation is subject to the project list in section 104, chapter 277, Laws of 2004.

Reappropriation:

State Building Construction Account—State	\$1,750,000
Prior Biennia (Expenditures)	\$2,718,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,468,000

NEW SECTION. Sec. 112. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Building for the Arts (06-4-005)

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

- (1) The appropriation is subject to the provisions of RCW 43.63A.750.
- (2) The appropriation is provided solely for the following list of projects:

Projects	Location	Recommendation
African-American museum	Seattle	\$700,000
McIntyre hall	Mount Vernon	\$350,000
Northwest film forum	Seattle	\$100,000
Historic Cooper school	Seattle	\$500,000
Merc playhouse	Twisp	\$6,000
Masquers theatre	Soap Lake	\$145,000
Cornish College of the Arts	Seattle	\$700,000
Dahmen barn workshop	Uniontown	\$79,000
Roxy theatre	Morton	\$75,000
Duwamish longhouse	Seattle	\$65,000
Everett symphony	Everett	\$215,000
Admiral theatre	Bremerton	\$180,000
Pratt fine arts center	Seattle	\$300,000
Arlington performing arts	Arlington	\$375,000
Seattle Academy of Fine Art	Seattle	\$35,000
Academy of children's theatre	Richland	\$150,000
Empire theatre	Tekoa	\$25,000
Children's museum	Spokane	\$75,000
World kite museum	Long Beach	\$115,000
McCaw hall	Seattle	\$1,000,000
KidsQuest children's museum	Bellevue	\$200,000
Total		\$5,390,000

Appropriation:

State Building Construction Account—State	\$5,390,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000

TOTAL \$21,390,000

NEW SECTION. Sec. 113. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Cancer Research Facility Grant (01-S-005)

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

(1) The reappropriation is provided as a grant for equipment and facilities improvements for a prostate cancer research project at the University of Washington medical center and must be matched by an equal amount from nonstate sources.

(2) The project must comply with RCW 43.63A.125(2)(c) and other requirements for community projects administered by the department.

Reappropriation:

State Building Construction Account—State	\$668,000
Prior Biennia (Expenditures)	\$2,332,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 114. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Fox Theatre Project (01-S-006)

The reappropriation in this section is subject to the following conditions and limitations: The project must comply with RCW 43.63A.125(2)(c) and other requirements for community projects administered by the department.

Reappropriation:

State Building Construction Account—State	\$2,093,031
Prior Biennia (Expenditures)	\$1,406,969
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,500,000

NEW SECTION. Sec. 115. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

West Central Community Center (01-S-016)

The reappropriation in this section is subject to the following conditions and limitations: The project must comply with RCW 43.63A.125(2)(c) and other requirements for community projects administered by the department.

Reappropriation:

State Building Construction Account—State	\$493,750
Prior Biennia (Expenditures)	\$106,250
Future Biennia (Projected Costs)	\$0
TOTAL	\$600,000

NEW SECTION. Sec. 116. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Public Works Trust Fund (04-4-001)

Reappropriation:

Public Works Assistance Account—State	\$350,000,000
Prior Biennia (Expenditures)	\$66,200,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$416,200,000

NEW SECTION. Sec. 117. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Public Works Trust Fund (06-4-004)

Appropriation:

Public Works Assistance Account—State	\$288,900,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,400,000,000
TOTAL	\$1,688,900,000

NEW SECTION. Sec. 118. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Highline School District Aircraft Noise Mitigation (03-H-001)

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

(1) The reappropriation in this section is subject to the Highline school district, the port of Seattle, and the federal aviation administration each matching the appropriation in section 150, chapter 26, Laws of 2003 1st sp. sess.

(2) This reappropriation does not commit the state to make future appropriations for this program.

Reappropriation:

State Building Construction Account—State	\$7,517,598
Prior Biennia (Expenditures)	\$7,482,402
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,000,000

NEW SECTION. Sec. 119. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

City of Woodland Infrastructure Development (04-4-959)

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

(1) The project must comply with RCW 43.63A.125(2)(c) and other requirements for community projects administered by the department.

(2) The reappropriation is provided for allocation by the department to the city of Woodland for infrastructure development, including drainage improvements and a dike access road.

Reappropriation:

State Building Construction Account—State	\$262,451
Prior Biennia (Expenditures)	\$37,549
Future Biennia (Projected Costs)	\$0
TOTAL	\$300,000

NEW SECTION. Sec. 120. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Community Economic Revitalization Board (04-4-008)

The reappropriation in this section is subject to the following conditions and limitations: A maximum of twenty-five percent of the appropriation in section 105, chapter 277, Laws of 2004 may be used for grants.

Reappropriation:

Public Facility Construction Loan Revolving	
Account—State	\$11,437,000
Prior Biennia (Expenditures)	\$54,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,491,000

NEW SECTION. Sec. 121. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Community Economic Revitalization Board (CERB) (06-4-011)

The appropriation in this section is subject to the following conditions and limitations: A maximum of twenty-five percent of the appropriation may be used for grants.

Appropriation:

Public Facility Construction Loan Revolving	
Account—State	\$20,448,657
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$54,990,055
TOTAL	\$75,438,712

NEW SECTION. Sec. 122. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Community Services Facilities Program (04-4-006)

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

- (1) The reappropriation is subject to the provisions of RCW 43.63A.125.
- (2) The reappropriation is subject to the project list in section 128, chapter 26, Laws of 2003 1st sp. sess.

Reappropriation:

State Building Construction Account—State	\$800,000
Prior Biennia (Expenditures)	\$5,131,280
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,931,280

NEW SECTION. Sec. 123. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Community Services Facilities Program (06-4-006)

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

- (1) The appropriation is subject to the provisions of RCW 43.63A.125.
- (2) The appropriation is provided solely for the following list of projects:

Projects	Location	Recommendation
Abused deaf women's advocacy services	Seattle	\$400,000
YouthCare	Seattle	\$350,000
Pike market senior center	Seattle	\$310,000
Friends of gladish	Pullman	\$25,000
FareStart	Seattle	\$400,000
Denise Louie education center	Seattle	\$400,000
Rural resources community action	Newport	\$170,000
Jumping mouse children's center	Port Townsend	\$45,000
Compass center	Seattle	\$400,000
Neighborhood house	Seattle	\$550,000
Behavioral health resources	Olympia	\$400,000
Salvation Army Renton corp	Renton	\$350,000
Metropolitan development council	Tacoma	\$110,000
Lutheran community services	SeaTac	\$400,000
Olympia childcare center	Olympia	\$90,000
Kitsap Community Resources	Bremerton	\$735,000
Northwest Youth Services	Bellingham	\$210,000
Total		\$5,345,000

Appropriation:

State Building Construction Account—State	\$5,345,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000
TOTAL	\$21,345,000

NEW SECTION. Sec. 124. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Greenbank Farm (04-4-950)

The reappropriation in this section is subject to the following conditions and limitations: The project must comply with RCW 43.63A.125(2)(c) and other requirements for community projects administered by the department.

Reappropriation:

State Building Construction Account—State	\$550,000
Prior Biennia (Expenditures)	\$950,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 125. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Housing Assistance, Weatherization, and Affordable Housing (04-4-003)

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

(1) \$1,700,000 of the reappropriation is provided solely to promote development of safe and affordable housing units for persons eligible for services from the division of developmental disabilities within the department of social and health services.

(2) \$700,000 of the reappropriation is provided solely for grants to nonprofit organizations and public housing authorities for revolving loan, self-help housing programs for low and moderate income families.

(3) \$84,500 of the reappropriation is provided solely for shelters, transitional housing, or other housing facilities for victims of domestic violence.

(4) \$600,000 of the reappropriation is provided solely for facilities housing low-income migrant, seasonal, or temporary farmworkers. It is the intent of the legislature that operation of the facilities built under this section be in compliance with 8 U.S.C. Sec. 1342. The department shall work with the farmworker housing advisory committee to prioritize funding of projects to the areas of highest need. Funding may also be provided, to the extent qualified projects are submitted, for health and safety projects.

(5) \$1,400,000 of the reappropriation is provided solely for the development of emergency shelters and transitional housing opportunities for homeless families with children.

(6) Up to \$1,000,000 of the reappropriation is provided to help capitalize a self-insurance risk pool for nonprofit corporations in Washington that develop housing units for low-income persons and families. The self-insurance risk pool shall be approved by the state risk manager. The self-insurance risk pool shall repay to the state the amount of the reappropriation provided to the risk pool under this section whenever the capitalization exceeds the minimum requirements established by the office of the risk manager. Any reappropriation authority not expended by June 30, 2007, shall lapse.

Reappropriation:

State Taxable Building Construction Account—State.	\$25,780,000
Prior Biennia (Expenditures)	\$55,220,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$81,000,000

NEW SECTION. Sec. 126. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Housing Assistance, Weatherization, and Affordable Housing (06-4-001)

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

(1) \$9,000,000 of the appropriation is provided solely for weatherization administered through the energy matchmakers program.

(2) \$5,000,000 of the appropriation is provided solely to promote development of safe and affordable housing units for persons eligible for

services from the division of developmental disabilities within the department of social and health services.

(3) \$2,500,000 of the appropriation is provided solely for grants to nonprofit organizations and public housing authorities for revolving loan, self-help housing programs for low and moderate income families.

(4) \$1,000,000 of the appropriation is provided solely for shelters, transitional housing, or other housing facilities for victims of domestic violence.

(5) \$5,000,000 of the appropriation is provided solely for the development of emergency shelters and transitional housing opportunities for homeless families with children.

(6) \$8,000,000 of the appropriation is provided solely for facilities housing low-income migrant, seasonal, or temporary farmworkers. It is the intent of the legislature that operation of the facilities built under this section be in compliance with 8 U.S.C. Sec. 1342. The department shall work with the farmworker housing advisory committee to identify sufficient farmworker housing projects to support a goal of providing \$16,000,000 for farmworker housing, and to prioritize funding of projects to the areas of highest need. Funding may also be provided, to the extent qualified projects are submitted, for health and safety projects.

(7) The appropriation in this section shall not be used for the administrative costs of the department. The amount of the appropriation shall be included in the calculation of annual funds available for determining the administrative costs authorized under RCW 43.185.050.

Appropriation:

State Taxable Building Construction

Account—State	\$100,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$320,000,000
TOTAL	\$420,000,000

NEW SECTION. Sec. 127. \$2,500,000 of the state taxable building construction account—state appropriation in section 126 of this act is provided solely for on-farm infrastructure improvements that directly support the creation or preservation of housing for low-income migrant, seasonal, or temporary farmworkers. Future loan repayments shall be used for the same purpose as specified in this section.

NEW SECTION. Sec. 128. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Japanese-American Memorial (04-4-951)

The reappropriation in this section is subject to the following conditions and limitations: The project must comply with RCW 43.63A.125(2)(c) and other requirements for community projects administered by the department.

Reappropriation:

State Building Construction Account—State	\$475,000
Prior Biennia (Expenditures)	\$1,025,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 129. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Lewis and Clark Confluence Project (04-2-954)

The reappropriation in this section is subject to the following conditions and limitations: The project must comply with RCW 43.63A.125(2)(c) and other requirements for community projects administered by the department.

Reappropriation:

State Building Construction Account—State	\$4,337,500
Prior Biennia (Expenditures)	\$662,500
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 130. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Local/Community Projects (04-4-011)

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

(1) The projects must comply with RCW 43.63A.125(2)(c) and other requirements for community projects administered by the department, except that the Highline historical society project is land acquisition.

(2) The reappropriation is subject to the project list in section 204, chapter 277, Laws of 2004.

Reappropriation:

State Building Construction Account—State	\$5,228,345
Prior Biennia (Expenditures)	\$8,086,155
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,314,500

NEW SECTION. Sec. 131. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Local/Community Projects (06-4-008)

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

(1) The projects must comply with RCW 43.63A.125(2)(c) and other requirements for community projects administered by the department.

(2) Funding for the Inland Northwest Science and Technology Center shall be held in reserve until the balance of phase I funding has been secured or committed from local government and community sources.

(3) The Washington state arts commission shall design a plaque that shall be affixed to buildings or displayed as part of a project receiving any appropriation from this section. The plaque shall provide information to the public that the building or project has been made possible by the tax dollars of Washington citizens. The commission may contact the secretary of state to obtain approval for use of the Washington seal in the design of the plaque. The final design shall be approved by the chairs and ranking members of the house of representatives capital budget committee and the senate ways and means committee.

(4) The appropriation is provided solely for the following list of projects:

Projects	Recommendation
7th street theatre	\$600,000
Alder creek pioneer association carousel museum	\$450,000
Asian counseling and referral service	\$2,000,000
Bailey Gatzert children's play area	\$75,000
Bridge for kids	\$850,000
Brookside school ADA playground equipment	\$25,000
Buena library	\$50,000
Cannon house	\$250,000
Central area motivation program (CAMP)	\$250,000
Cesar Chavez park	\$150,000
Childhaven	\$150,000
Clark Lake park and retreat center	\$500,000
Colman school	\$500,000
Columbia breaks fire interpretive center	\$150,000
Covington aquatics center phase 1	\$350,000
Crossroads community center and park	\$250,000
Cutter theater	\$71,000
Des Moines beach park historic buildings	\$300,000
Discovery park	\$1,000,000
East Whatcom regional resource center	\$1,750,000
Eatonville family park	\$50,000
El Centro de la Raza	\$900,000
Filipino community center	\$200,000
Foster creek	\$150,000
Fox theater	\$2,398,000
GC health clinic	\$12,000
Grand Army of the Republic cemetery	\$5,000
Granite Falls museum expansion	\$50,000
Greenbridge plaza in White Center	\$200,000
Habitat park south hill	\$400,000
Hidden river environmental education center	\$50,000
ICL education center	\$200,000
Japanese cultural and community center	\$200,000
Joel Pritchard park	\$2,500,000
Joe's creek project	\$856,000

Juanita creek channel and riparian restoration	\$500,000
Julia Butler Hansen home restoration	\$10,000
LeRoi smelter smokestack monument	\$3,000
Lewis and Clark confluence project	\$1,500,000
McCaw hall	\$2,000,000
MOBIUS/Inland Northwest science and technology center	\$1,500,000
Mt. Baker theater	\$200,000
Mt. Vernon Jasper Gates statue	\$12,000
Multicultural center of Kitsap county	\$250,000
Nathaniel Orr home site museum interpretive center	\$29,000
New Lakewood clinic	\$350,000
Northeast community center expansion	\$250,000
Northshore performing arts center	\$1,000,000
Northwest communities education center	\$1,000,000
Oak Harbor multi-purpose community and sports facility	\$50,000
Omak grandstand	\$250,000
Pacific Northwest salmon center	\$1,000,000
Pacific science center	\$900,000
Performing arts center (PACE)	\$500,000
Puget Sound freight building warehouse—Thea Foss waterway	\$2,000,000
Relocation of Sieke Japanese gardens	\$250,000
River walk and Sammamish river restoration	\$200,000
Roslyn city hall	\$150,000
Ruth Dykeman children's center	\$27,000
Sandman historical tug restoration	\$10,000
Seattle community center (1115 E. Pike street)	\$13,000
Seward park environmental and audubon center	\$400,000
Snohomish senior center	\$150,000
Sno-Valley senior activity center kitchen	\$50,000
Sound way property preservation	\$500,000
Spokane river whitewater course	\$400,000
Sumas ballpark	\$250,000
Synthetic sportsfield partnership at Robinswood park	\$400,000

Tall ships moorage	\$300,000
Tukwila kayak and canoe launching facility	\$20,000
Undeveloped woodlands linked to interurban nature trail	\$150,000
Vancouver museum	\$125,000
Vancouver national historical reserve west barracks	\$1,000,000
Veterans memorial museum	\$100,000
West Seattle community resource center	\$500,000
West central community center	\$500,000
West Hylebos wetlands boardwalk	\$100,000
Wilson playfield land acquisition	\$200,000
Wing Luke Asian art museum	\$2,000,000
Youth housing/drop-in center	\$400,000
Total	\$39,391,000

Appropriation:

State Building Construction Account—State	\$39,391,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$39,391,000

NEW SECTION. Sec. 132. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

PBS Digital Upgrade (04-4-958)

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

(1) The project must comply with RCW 43.63A.125(2)(c) and other requirements for community projects administered by the department.

(2) \$345,625 is provided to public television station KYVE for the costs to convert to digital transmission capability and the upgrading and replacement of equipment, studio facilities, and contents.

(3) The remaining reappropriation is available for public television stations based outside central Puget Sound metropolitan areas.

Reappropriation:

State Building Construction Account—State	\$363,548
Prior Biennia (Expenditures)	\$336,452
Future Biennia (Projected Costs)	\$0
TOTAL	\$700,000

NEW SECTION. Sec. 133. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Washington State Games (04-4-850)

Reappropriation:

State Building Construction Account—State	\$97,597
Prior Biennia (Expenditures)	\$102,403
Future Biennia (Projected Costs)	\$0
TOTAL	\$200,000

NEW SECTION. Sec. 134. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Wing Luke Asian Art Museum (04-4-952)

The reappropriation in this section is subject to the following conditions and limitations: The project must comply with RCW 43.63A.125(2)(c) and other requirements for community projects administered by the department.

Reappropriation:

State Building Construction Account—State	\$316,202
Prior Biennia (Expenditures)	\$1,183,798
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 135. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Yakima Ball Fields (04-2-952)

The reappropriation in this section is subject to the following conditions and limitations: \$119,990 of the reappropriation is provided solely to Yakima Valley Community College for the purchase of Noel field from the city of Yakima, and \$230,000 is provided solely to the city of Yakima to replace and relocate ballfields. It is intended that no funds be distributed to the city of Yakima until the transfer of the Noel field property is complete.

Reappropriation:

State Building Construction Account—State	\$346,000
Prior Biennia (Expenditures)	\$4,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$350,000

NEW SECTION. Sec. 136. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Youth Recreational Facilities Program (06-4-007)

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

- (1) The appropriation is subject to the provisions of RCW 43.63A.135.
- (2) The appropriation is provided solely for the following list of projects:

Projects	Location	Recommendation
Clinton and Gloria John clubhouse	Vancouver	\$300,000
Greenbridge youth and family center	Seattle	\$300,000
Mount Angeles clubhouse remodel	Port Angeles	\$40,000
Mukilteo family YMCA skate park	Mukilteo	\$200,000

Girl scouts program center	Spokane	\$300,000
Federal Way Ex3 teen center	Federal Way	\$300,000
Granite Falls clubhouse renovation	Granite Falls	\$120,000
Monroe teen center	Monroe	\$100,000
Springwood youth center	Kent	\$300,000
Lummi youth recreation	Bellingham	\$40,000
H.O.P.E. center	Gig Harbor	\$200,000
South Whidbey commons	Langley	\$200,000
H.O.P.E. center	Lakewood	\$500,000
Tumwater boys and girls club	Tumwater	\$400,000
Total		\$3,300,000

Appropriation:

State Building Construction Account—State	\$3,300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$8,000,000
TOTAL	\$11,300,000

NEW SECTION. Sec. 137. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Historic Courthouse Rehabilitation (06-4-009)

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

(1) \$4,550,000 of the appropriation is provided solely for courthouse protection and preservation, including character defining architectural features, general repairs, system upgrades, payments for renovations completed since January 1, 2003, and improvements to access and accommodations for persons with disabilities. The office of archaeology and historic preservation within the department of community, trade, and economic development shall administer the historic county courthouse grant program. By October 1, 2005, the department shall establish eligibility criteria and a grant application process. A historic courthouse advisory committee shall be established to review grant applications and make funding recommendations to the state historic preservation officer. All rehabilitation work shall comply with the secretary of interior's standards for rehabilitation. Grants shall not be used for expenditures for courthouse maintenance. Only counties with historic courthouses that continue to maintain county functions are eligible for grants. Counties receiving grants shall provide an equal amount of matching funds from public or private sources. The department shall minimize the amount of these funds that are utilized for program administration.

(2) \$450,000 of the appropriation is provided solely for rehabilitation of the Jefferson county clock tower.

Appropriation:

State Building Construction Account—State	\$5,000,000
---	-------------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 138. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Job/Economic Development Grants (06-4-950)

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

(1) The appropriation is provided solely for the following list of projects:

Projects	Recommendation
Belfair sewer improvements	\$8,000,000
Bellingham waterfront restoration	\$2,000,000
Bremerton Harborside	\$4,000,000
Burien town square	\$2,000,000
Carnation sewer	\$2,000,000
City of Covington	\$1,000,000
Infrastructure for Renton Boeing property	\$5,000,000
Military communities infrastructure projects	\$5,000,000
Pacific Northwest national labs campus infrastructure project	\$6,000,000
Rainier court	\$1,500,000
Redevelop Snohomish riverfront	\$1,500,000
Ridgefield employment center project	\$2,000,000
Tukwila Southcenter parkway infrastructure	\$6,000,000
Yakima town center restoration	\$4,000,000
Total	\$50,000,000

(2) \$1,000,000 of the appropriation for the Pacific Northwest national labs campus infrastructure project is provided solely for giga-pop infrastructure.

(3) \$5,000,000 of the appropriation for military communities infrastructure projects is provided solely for grants to support projects in Island county, Kitsap county, Pierce county, Snohomish county, and Spokane county when a military base in that county is identified for potential closure in the federal base realignment and closure process. The grants will be used to address infrastructure improvements that will aid in the removal of the base from the closure list. The office of financial management shall establish a process for selecting projects for funding based on criteria used to determine the federal base realignment and closure list and recommendations by the department of community, trade, and economic development and the military department. Final allocation of the grants shall be at the discretion and with the approval of the director of the office of financial management.

Appropriation:

Public Works Assistance Account—State	\$50,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$50,000,000

NEW SECTION. Sec. 139. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Coastal Erosion Grants (01-S-019)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided for coastal erosion grants in southeast Washington in partnership with other state and federal funds. Grays Harbor county is the lead agency in the administration of the grants.

Appropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 140. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Jobs in Communities (06-4-951)

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

- (1) The projects must comply with RCW 43.63A.125(2)(c) and other requirements for community projects administered by the department.
- (2) The appropriation is provided solely for the following list of projects:

Projects

Belfair sewer improvements	\$8,000,000
LeMay museum	\$1,000,000
Port of Walla Walla wine incubator	\$1,000,000
Wine and culinary arts center in Prosser	\$2,250,000
Total	\$12,250,000

Appropriation:

State Building Construction Account—State	\$12,250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,250,000

NEW SECTION. Sec. 141. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

East Plaza Repairs (96-1-002)

Reappropriation:

State Vehicle Parking Account—State	\$5,000,000
---	-------------

Prior Biennia (Expenditures)	\$36,567,200
Future Biennia (Projected Costs)	\$0
TOTAL	\$41,567,200

NEW SECTION, Sec. 142. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Legislative Building: Rehabilitation and Capital Addition (01-1-008)

Reappropriation:

Thurston County Capital Facilities Account—State	\$100,000
Prior Biennia (Expenditures)	\$106,280,442
Future Biennia (Projected Costs)	\$0
TOTAL	\$106,380,442

***NEW SECTION, Sec. 143. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Cherberg Building: Rehabilitation (02-1-005)

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

(1) The reappropriation is for the purpose of furthering the John A. Cherberg building rehabilitation project, including but not limited to the following: Project final design and initial phase of reconstruction; purchase and remodel of the two modular buildings currently owned by the Legislative building rehabilitation project; and remodel of a portion of the Joel M. Pritchard building for use as swing space during reconstruction.

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

(a) Funding is provided solely for design, construction, and other costs related to the relocation efforts associated with this project.

(b) The construction contract award shall be made to the general contractor offering written and oral materials demonstrating the greatest value for attainment of the program objectives considering a number of evaluation criteria, including cost.

(c) Project oversight is delegated to the senate. Of this appropriation, \$750,000 is provided to the senate for management costs. Costs incurred by the department for this project shall be negotiated with the senate as reimbursable project agreements and approved by the senate. The department shall make available to the senate such personnel, facilities, and other assistance as the senate may request for this project.

(d) The department may negotiate agreements with the senate for additional fees to manage the John A. Cherberg building rehabilitation project.

(e) Upon completion of the project, the temporary modular buildings shall be sold and removed, and the parking lot shall be restored and landscaped.

Reappropriation:

State Building Construction Account—State	\$2,500,000
---	-------------

Appropriation:

State Building Construction Account—State	\$12,253,000
Thurston County Capital Facilities Account—State	\$1,439,000
Subtotal Appropriation	\$13,692,000

Prior Biennia (Expenditures)	\$3,100,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$19,292,000

*Sec. 143 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 144. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Minor Works - Infrastructure Preservation: Capital Campus (04-1-003)

The reappropriation in this section is subject to the following conditions and limitations: This reappropriation shall not be used for studies.

Reappropriation:

Thurston County Capital Facilities Account—State	\$750,000
Prior Biennia (Expenditures)	\$1,350,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,100,000

NEW SECTION. Sec. 145. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Minor Works - Facility Preservation: Statewide (04-1-004)

Reappropriation:

Thurston County Capital Facilities Account—State	\$200,000
Prior Biennia (Expenditures)	\$5,345,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,545,000

NEW SECTION. Sec. 146. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Historic Buildings - Exterior Preservation (04-1-012)

The reappropriation in this section is subject to the following conditions and limitations: This reappropriation is provided solely for capital projects on the capitol campus that correct immediate restoration deficiencies. It does not include survey, planning, or interior work.

Reappropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$1,225,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,475,000

NEW SECTION. Sec. 147. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Transportation Building Preservation (02-1-008)

Appropriation:

Thurston County Capital Facilities Account—State	\$5,190,000
Prior Biennia (Expenditures)	\$2,939,116
Future Biennia (Projected Costs)	\$12,818,000
TOTAL	\$20,947,116

NEW SECTION. Sec. 148. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Legislative Building Security (04-2-950)

Reappropriation:

Thurston County Capital Facilities Account—State	\$60,000
Prior Biennia (Expenditures)	\$1,119,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,179,000

NEW SECTION. Sec. 149. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Emergency Repairs (06-1-001)

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for unanticipated building or infrastructure repairs necessary for the protection of capital assets and protection of health or safety.

Appropriation:

State Building Construction Account—State	\$350,000
Thurston County Capital Facilities Account—State	\$900,000
General Administration Service Account—State	\$150,000
Subtotal Appropriation	\$1,400,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,400,000

NEW SECTION. Sec. 150. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Infrastructure Projects - Savings (06-1-008)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 906 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

NEW SECTION. Sec. 151. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Engineering and Architectural Services (06-2-012)

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

(1) The appropriations are provided solely for project management services to state agencies as required by RCW 43.19.450 that are essential and mandated activities defined as core services and are included in the engineering and

architectural services' responsibilities and task list for general public works projects of normal complexity. The general public works projects included are all those financed by the state capital budget for the biennium ending June 30, 2007, with individual total project values up to \$20,000,000.

(2) The community and technical capital projects account shall be used to provide services to six community and technical colleges projects that require separate reimbursable project management agreements.

(3) The department may negotiate agreements with agencies for additional fees to manage projects financed by financial contracts, other alternative financing, projects with a total value greater than \$20,000,000, or for the nonstate funded portion of projects with mixed funding sources.

(4) The department shall review each community and technical college request and the requests of other client agencies for funding any project over \$2,500,000 for inclusion in the 2006 supplemental capital budget and the 2007-09 capital budget to ensure that the amount requested by the agency is appropriate for predesign, design, and construction, depending on the phase of the project being requested. The department shall pay particular attention: (a) That the budgeted amount requested is at an appropriate level for the various components that make up the cost of the project such as project management; and (b) that standard measurements such as cost per square foot are reasonable. The department shall also assist the office of financial management with review of other agency projects as requested.

Appropriation:

Charitable, Educational, Penal, and Reformatory	
Institutions Account—State	\$145,000
State Vehicle Parking Account—State	\$132,815
State Building Construction Account—State	\$9,216,771
Community/Technical College Capital Projects	
Account—State.	\$1,723,892
Thurston County Capital Facilities Account—State	\$461,307
General Administration Service Account—State	\$103,839
Subtotal Appropriation	\$11,783,624
Prior Biennia (Expenditures) \$0	
Future Biennia (Projected Costs) \$43,464,100	
TOTAL \$55,247,724	

NEW SECTION. Sec. 152. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

General Administration Building Rehabilitation (06-1-002)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely for predesign for replacement or renovation of the general administration building combined with the development of an office building on the block adjoining Capital Way and 11th avenue. The combined development is intended to provide: (1) Executive office space for statewide elected officials; (2) public access space for the state library collection and historically significant documents from the state archives and the state historical museum; and (3) high density general office space that can adapt to changing state needs. The project will maximize interagency sharing of

support services such as information technology, printing and mailing, management and storage of supplies, reception areas, and other common functions. The project will also include sufficient parking to provide a significant net increase in parking spaces beyond what is required for the new office space. The project shall also include leasable ground floor retail space on Capital Way. The department shall consult with statewide elected officials and the city of Olympia in developing the predesign. The predesign shall evaluate the use of the Pritchard building as one of the options for use by the state library and historically significant documents from the state archives and state historical museum. Due to the intended replacement of the building adjoining Capital Way and 11th avenue, the department shall not charge the facility depreciation component of lease charges for nonprofit tenants in that facility during the 2005-2007 biennium.

Appropriation:

Thurston County Capital Facilities Account—State	\$750,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$65,500,000
TOTAL	\$66,250,000

NEW SECTION. Sec. 153. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Highway-License Building Repair and Renewal (06-1-013)

Appropriation:

Thurston County Capital Facilities Account—State	\$925,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$4,600,000
TOTAL	\$5,525,000

NEW SECTION. Sec. 154. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Natural Resources Building Repairs and Renewal (06-1-014)

Appropriation:

Thurston County Capital Facilities Account—State	\$502,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$7,950,000
TOTAL	\$8,452,000

NEW SECTION. Sec. 155. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Statewide Infrastructure: Preservation Minor Works (06-1-004)

The appropriations in this section are subject to the following conditions and limitations: The department shall contract with the department of transportation for the repair of the hillside trail. The department shall provide all documents, engineering reports, and any other plans to the department of transportation so that their engineers may determine the best approach for a long-term solution to the erosion problem. The department shall reserve at least \$600,000 for this repair. If the hillside survives the 2005-06 rainy season

without a significant slide, the unspent balance of this reserved money may be used for other purposes.

Appropriation:

State Vehicle Parking Account—State	\$34,000
State Building Construction Account—State	\$1,000,000
Thurston County Capital Facilities Account—State	\$2,033,600
Subtotal Appropriation	\$3,067,600
 Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$11,585,000
TOTAL	\$14,652,600

NEW SECTION. Sec. 156. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Statewide Office Facilities: Preservation Minor Works (06-1-003)

Appropriation:

Thurston County Capital Facilities Account—State	\$2,965,000
General Administration Service Account—State	\$1,850,000
Subtotal Appropriation	\$4,815,000
 Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,239,000
TOTAL	\$21,054,000

NEW SECTION. Sec. 157. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Statewide Parking Facilities: Preservation Minor Works (06-1-007)

Appropriation:

State Vehicle Parking Account—State	\$880,000
 Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,585,000
TOTAL	\$2,465,000

NEW SECTION. Sec. 158. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Capitol Public/Historic Facilities: Preservation Minor Works (06-1-006)

Appropriation:

State Building Construction Account—State	\$1,000,000
 Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$2,270,000
TOTAL	\$3,270,000

NEW SECTION. Sec. 159. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Heritage Park Complete Development (01-H-004)

Appropriation:

State Building Construction Account—State	\$1,600,000
 Prior Biennia (Expenditures)	\$15,535,774

Future Biennia (Projected Costs).....	\$0
TOTAL	\$17,135,774

***NEW SECTION. Sec. 160. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

State Capitol Campus Master Plan (06-2-850)

The appropriations in this section are subject to the following conditions and limitations: The appropriation in this section is provided solely for completion of the capitol campus master plan. The master plan shall consider transportation needs of state employees and visitors. The department shall develop the master plan in consultation with the state capitol committee and a legislative buildings committee consisting of four members as follows: Two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives; and two members of the senate, one from each major caucus, appointed by the president of the senate.

Appropriation:

General Administration Services Account—State.....	\$200,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$200,000

*Sec. 160 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 161. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Legislative Building Omnibus (06-1-005)

The appropriations in this section are subject to the following conditions and limitations: The department shall assist in the relocation of the statute law committee offices from the legislative building to the Pritchard building. The vacated space is intended for additional offices for the house of representatives.

Appropriation:

State Building Construction Account—State	\$1,100,000
Thurston County Capital Facilities Account—State	\$878,000
Subtotal Appropriation.....	\$1,978,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,978,000

NEW SECTION. Sec. 162. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

ADA Access Between Legislative, Cherberg, O'Brien, and Pritchard Buildings (06-1-951)

Appropriation:

State Building Construction Account—State	\$1,349,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,349,000

***NEW SECTION. Sec. 163. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Capitol Lake: Environmental Preservation and Planning (00-1-007)

Appropriation:

State Building Construction Account—State	\$270,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$270,000

*Sec. 163 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 164. FOR THE MILITARY DEPARTMENT
Bremerton Readiness Center (02-2-004)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the conditions and limitations in section 183, chapter 8, Laws of 2001 2nd sp. sess.

Reappropriation:

State Building Construction Account—State	\$800,000
Prior Biennia (Expenditures)	\$11,023,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,823,000

NEW SECTION. Sec. 165. FOR THE MILITARY DEPARTMENT
Construct Spokane Readiness Center (04-2-003)

Reappropriation:

General Fund—Federal	\$7,800,000
State Building Construction Account—State	\$3,300,000
Subtotal Reappropriation	\$11,100,000
Prior Biennia (Expenditures)	\$2,468,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,568,000

NEW SECTION. Sec. 166. FOR THE MILITARY DEPARTMENT
Omnibus Support to Federal Preservation Projects (04-1-003)

Reappropriation:

General Fund—Federal	\$6,300,000
State Building Construction Account—State	\$1,100,000
Subtotal Reappropriation	\$7,400,000
Prior Biennia (Expenditures)	\$6,548,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,948,000

NEW SECTION. Sec. 167. FOR THE MILITARY DEPARTMENT
Preservation Projects - Statewide (04-1-001)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is to correct deficiencies to state-owned facilities and does not include parking lot repairs or paving.

Reappropriation:

State Building Construction Account—State	\$600,000
Prior Biennia (Expenditures)	\$513,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,113,000

NEW SECTION. Sec. 168. FOR THE MILITARY DEPARTMENT

Alteration of Building No. 2, Camp Murray (05-1-001)

Reappropriation:

General Fund—Federal	\$140,000
--------------------------------	-----------

Appropriation:

General Fund—Federal	\$1,260,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,400,000

NEW SECTION. Sec. 169. FOR THE MILITARY DEPARTMENT

Courseware Development Support Facility (05-2-002)

Reappropriation:

General Fund—Federal	\$138,000
--------------------------------	-----------

Appropriation:

General Fund—Federal	\$1,237,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,375,000

NEW SECTION. Sec. 170. FOR THE MILITARY DEPARTMENT

Design and Construct Olympia Area Readiness Center (06-2-002)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is for a predesign to develop alternatives for the consolidation of the Olympia and Centralia readiness centers.

Appropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$23,062,000
TOTAL	\$23,312,000

NEW SECTION. Sec. 171. FOR THE MILITARY DEPARTMENT

Auditorium and Instructor Support Facility (06-2-003)

Appropriation:

General Fund—Federal	\$1,390,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,390,000

NEW SECTION. Sec. 172. FOR THE MILITARY DEPARTMENT

Infrastructure Projects-Savings (06-1-022)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 906 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

NEW SECTION, Sec. 173. FOR THE MILITARY DEPARTMENT

Kent Readiness Center Preservation (06-1-001)

Appropriation:

General Fund—Federal	\$750,000
State Building Construction Account—State	\$386,000
Subtotal Appropriation	\$1,136,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,136,000

NEW SECTION, Sec. 174. FOR THE MILITARY DEPARTMENT

National Guard Headquarter’s Building Preservation (06-1-002)

Appropriation:

State Building Construction Account—State	\$643,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$643,000

NEW SECTION, Sec. 175. FOR THE MILITARY DEPARTMENT

Omnibus Preservation Projects - Statewide (06-1-003)

Appropriation:

State Building Construction Account—State	\$2,723,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$12,000,000
TOTAL	\$14,723,000

NEW SECTION, Sec. 176. FOR THE MILITARY DEPARTMENT

Omnibus Support for Federal Minor Works Projects - Statewide (06-2-001)

Appropriation:

General Fund—Federal	\$15,851,000
State Building Construction Account—State	\$2,000,000
Subtotal Appropriation	\$17,851,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$77,571,000
TOTAL	\$95,422,000

NEW SECTION. Sec. 177. FOR THE STATE CONVENTION AND TRADE CENTER

Minor Works: Facility Preservation (06-1-001)

The appropriation in the section is subject to the following conditions and limitations: \$40,000 of this appropriation shall be used to contract for services to conserve or maintain existing pieces of the state art collection located at the Washington state convention and trade center.

Appropriation:

State Convention and Trade Center Account—State.	\$3,000,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$6,770,000
TOTAL	\$9,770,000

**PART 2
HUMAN SERVICES**

NEW SECTION. Sec. 201. FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

School Mapping (06-1-100)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the initial mapping of schools and production of software and may not be used to supplant any local government's existing school or other building mapping program that can transfer data to a statewide first responder building mapping information system. Mapping of public buildings, including school buildings, shall be undertaken under standards adopted by the Washington association of sheriffs and police chiefs mapping software standards as required by RCW 36.28A.070. The criminal justice training commission shall work with the office of the superintendent of public instruction to ensure school mapping is part of newly constructed or renovated construction projects and shall develop policies and procedures to ensure efficient use and implementation of such procedures.

Appropriation:

Education Construction Account—State	\$4,500,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL	\$4,500,000

NEW SECTION. Sec. 202. FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

Washington State Criminal Justice Training Commission Omnibus Minor Works (06-1-003)

Appropriation:

State Building Construction Account—State	\$100,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0

TOTAL \$100,000

NEW SECTION. Sec. 203. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Echo Glen Children's Center - Site: Infrastructure Improvements (96-2-229)

Reappropriation:

Charitable, Educational, Penal, and Reformatory

Institutions Account—State \$925,000

State Building Construction Account—State \$830,000

Subtotal Reappropriation \$1,755,000

Prior Biennia (Expenditures) \$5,654,300

Future Biennia (Projected Costs) \$0

TOTAL \$7,409,300

NEW SECTION. Sec. 204. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital: Legal Offender Unit (98-2-052)

Reappropriation:

State Building Construction Account—State \$500,000

Prior Biennia (Expenditures) \$50,794,341

Future Biennia (Projected Costs) \$0

TOTAL \$51,294,341

NEW SECTION. Sec. 205. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Child Study and Treatment Center - Cottages: Modifications, Phase 3 (00-1-015)

Reappropriation:

State Building Construction Account—State \$900,000

Prior Biennia (Expenditures) \$900,000

Future Biennia (Projected Costs) \$0

TOTAL \$1,800,000

NEW SECTION. Sec. 206. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Echo Glen Children's Center - Eleven Cottages: Renovation (00-1-041)

Reappropriation:

State Building Construction Account—State \$500,000

Prior Biennia (Expenditures) \$5,605,495

Future Biennia (Projected Costs) \$16,100,000

TOTAL \$22,205,495

NEW SECTION. Sec. 207. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Special Commitment Center - Secure Facility: Construction, Phase 3 (00-2-001)

The reappropriation in this section is subject to the following conditions and limitations: To the extent that the department projects savings and efficiencies through design or scope changes, funds reappropriated in this section may be transferred to minor works-health, safety, and code requirements (project No. 06-1-111) for expenditure for minor works projects.

Reappropriation:

State Building Construction Account—State	\$1,200,000
Prior Biennia (Expenditures)	\$27,359,008
Future Biennia (Projected Costs)	\$0
TOTAL	\$28,559,008

NEW SECTION. Sec. 208. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Mental Health: Omnibus Programmatic Projects (04-2-365)

Reappropriation:

State Building Construction Account—State	\$450,000
Prior Biennia (Expenditures)	\$300,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$750,000

NEW SECTION. Sec. 209. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Omnibus Preservation: Facility Preservation (04-1-112)

Reappropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$2,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 210. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Omnibus Preservation: Health, Safety, and Code Requirements (04-1-111)

Reappropriation:

State Building Construction Account—State	\$600,000
Prior Biennia (Expenditures)	\$900,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 211. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Omnibus Preservation: Infrastructure Preservation (04-1-113)

Reappropriation:

State Building Construction Account—State	\$1,200,000
Prior Biennia (Expenditures)	\$300,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 212. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Rainier School - Wastewater Treatment Plant: Construction (Buckley) (04-1-950)

Reappropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$60,000
Prior Biennia (Expenditures)	\$190,000
Future Biennia (Projected Costs)	\$4,350,000
TOTAL	\$4,600,000

NEW SECTION. Sec. 213. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Residential Habilitation Center Consolidation (04-1-958)

Reappropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$2,100,000
State Building Construction Account—State	\$2,000,000
Subtotal Reappropriation	\$4,100,000
Prior Biennia (Expenditures)	\$1,900,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,000,000

NEW SECTION. Sec. 214. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Special Commitment Center - Regional Secure Community Transition Facility: New 12 Bed Facility (04-2-502)

Reappropriation:

State Building Construction Account—State	\$300,000
Prior Biennia (Expenditures)	\$2,700,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 215. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Statewide: Emergency and Unanticipated Repair Projects (04-1-116)

Reappropriation:

State Building Construction Account—State	\$100,000
Prior Biennia (Expenditures)	\$650,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$750,000

NEW SECTION. Sec. 216. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Developmental Disabilities: Omnibus Programmatic Projects (06-2-465)

Appropriation:

State Building Construction Account—State	\$1,500,000
---	-------------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 217. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Capital Project Management (06-1-110)

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$2,250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$11,100,000
TOTAL	\$13,350,000

NEW SECTION. Sec. 218. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Eastern State Hospital - Westlake Building: Fire Alarm Upgrade (06-1-370)

Appropriation:

State Building Construction Account—State	\$1,650,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,650,000

***NEW SECTION. Sec. 219. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Firecrest School - Health and Safety Improvements (06-1-852)

The appropriation in this section is subject to the following conditions and limitations: The department is directed to resolve the issues with the tenants at the Firecrest campus that impair their ability to provide services to food banks. A report shall be submitted on the status of the food bank tenant by the department to the house of representatives capital budget and senate ways and means committees by December 31, 2005.

Appropriation:

State Building Construction Account—State	\$750,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$750,000

*Sec. 219 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 220. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Juvenile Rehabilitation: Omnibus Programmatic Projects (06-2-265)

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0

TOTAL \$1,000,000

NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Lakeland Village - Nine Cottages: Renovation, Phase 4, 5, and 6 (06-1-402)

Appropriation:

State Building Construction Account—State \$2,400,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$5,100,000
TOTAL \$7,500,000

NEW SECTION. Sec. 222. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Mental Health Division - Clark County: Center for Community Health (06-4-351)

Appropriation:

State Building Construction Account—State \$3,000,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$0
TOTAL \$3,000,000

NEW SECTION. Sec. 223. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Mental Health Division - CLIP Facilities: Preservation (06-4-353)

Appropriation:

State Building Construction Account—State \$1,300,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$0
TOTAL \$1,300,000

NEW SECTION. Sec. 224. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Mental Health Division - Highline Mental Health: Preservation (06-4-313)

Appropriation:

State Building Construction Account—State \$50,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$0
TOTAL \$50,000

NEW SECTION. Sec. 225. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Mental Health Division - North Sound Evaluation and Treatment: Air Conditioning (06-4-356)

Appropriation:

State Building Construction Account—State \$35,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$0

TOTAL\$35,000

NEW SECTION. Sec. 226. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Mental Health Division - Eastern Washington: Evaluation and Treatment (06-4-352)

Appropriation:

State Building Construction Account—State \$1,500,000

Prior Biennia (Expenditures)..... \$0

Future Biennia (Projected Costs)..... \$1,500,000

TOTAL \$3,000,000

NEW SECTION. Sec. 227. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Mental Health: Omnibus Programmatic Projects (06-2-365)

Appropriation:

State Building Construction Account—State \$1,000,000

Prior Biennia (Expenditures)..... \$0

Future Biennia (Projected Costs)..... \$0

TOTAL \$1,000,000

NEW SECTION. Sec. 228. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Omnibus Preservation: Facility Preservation (06-1-112)

Appropriation:

State Building Construction Account—State \$3,000,000

Prior Biennia (Expenditures)..... \$0

Future Biennia (Projected Costs)..... \$0

TOTAL \$3,000,000

NEW SECTION. Sec. 229. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Omnibus Preservation: Health, Safety and Code Requirements (06-1-111)

Appropriation:

State Building Construction Account—State \$5,000,000

Prior Biennia (Expenditures)..... \$0

Future Biennia (Projected Costs)..... \$0

TOTAL \$5,000,000

NEW SECTION. Sec. 230. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Omnibus Preservation: Infrastructure Preservation (06-1-113)

Appropriation:

State Building Construction Account—State \$3,000,000

Prior Biennia (Expenditures)..... \$0

Future Biennia (Projected Costs)..... \$0

TOTAL \$3,000,000

NEW SECTION. Sec. 231. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Project Savings: Infrastructure and Preservation Projects (06-1-114)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 906 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

NEW SECTION. Sec. 232. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Statewide: Emergency and Unanticipated Repair Projects (06-1-101)

The appropriation in this section is subject to the following conditions and limitations: The appropriation shall only be used for unanticipated building or infrastructure repairs necessary for the protection of capital assets or protection of health or safety.

Appropriation:

State Building Construction Account—State	\$800,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$3,600,000
TOTAL	\$4,400,000

NEW SECTION. Sec. 233. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Statewide: Facilities Assessment and Preservation Planning, Phase 2 (06-1-120)

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$400,000
TOTAL	\$700,000

NEW SECTION. Sec. 234. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Statewide: Hazards Abatement and Demolition (06-1-119)

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$1,300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$7,700,000

TOTAL \$9,000,000

NEW SECTION. Sec. 235. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital - Laundry: New Construction (06-3-325)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to assess the feasibility of constructing a new western state hospital laundry using certificates of participation. The feasibility analysis shall include, but not be limited to, the following:

- (1) An assessment of the feasibility and costs for remodeling the existing building versus new construction;
- (2) An assessment of what facilities and equipment would be required to process the laundry for western state hospital, Rainier school, and Francis Haddon Morgan center;
- (3) An assessment of other potential clients to western state hospital laundry operations; and
- (4) An assessment of the region for the processing of western state hospital, Rainier school, and Francis Haddon Morgan center laundry including private vendors, nonprofit vendors, the department of corrections, or others.

Appropriation:

Charitable, Educational, Penal, and Reformatory
 Institutions Account—State \$100,000
 Prior Biennia (Expenditures) \$0
 Future Biennia (Projected Costs) \$0
 TOTAL \$100,000

NEW SECTION. Sec. 236. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Pediatric Interim Care Newborn Nursery (06-4-951)

Appropriation:

State Building Construction Account—State \$617,000
 Prior Biennia (Expenditures) \$0
 Future Biennia (Projected Costs) \$0
 TOTAL \$617,000

NEW SECTION. Sec. 237. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Cliff Bailey Center (06-4-952)

Appropriation:

State Building Construction Account—State \$225,000
 Prior Biennia (Expenditures) \$0
 Future Biennia (Projected Costs) \$0
 TOTAL \$225,000

NEW SECTION. Sec. 238. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Washington Information Network 2-1-1 (06-2-850)

The appropriation in this section is subject to the following conditions and limitations: The department shall require the organizations to prepare a financing plan that specifies the full cost of implementing the system statewide including capital costs and operating costs by September 1, 2006. The financing plan shall identify appropriate sources of revenue to support full implementation and ongoing operational costs.

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 239. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Special Commitment Center on McNeil Island: Additional Capacity (06-2-505)

Appropriation:

State Building Construction Account—State	\$100,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$21,500,000
TOTAL	\$21,600,000

NEW SECTION. Sec. 240. FOR THE DEPARTMENT OF HEALTH

Public Health Laboratory: Biosafety Level 3 Facility (02-2-001)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely for a comprehensive predesign exploring all alternatives for a biosafety level 3 facility and central receiving area, including potential federal funding sources that may be available for the project. The agency shall also explore the feasibility of collaboration and colocation with the University of Washington's proposed bioresearch laboratory. The predesign is subject to review and approval by the office of financial management in accordance with section 903 of this act.

Reappropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$101,485
Future Biennia (Projected Costs)	\$0
TOTAL	\$301,485

NEW SECTION. Sec. 241. FOR THE DEPARTMENT OF HEALTH

Public Health Laboratory: Chiller Plant Upgrade (02-1-004)

Reappropriation:

State Building Construction Account—State	\$2,040,000
---	-------------

Appropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$315,142

Future Biennia (Projected Costs)	\$0
TOTAL	\$2,855,142

NEW SECTION. Sec. 242. FOR THE DEPARTMENT OF HEALTH

Drinking Water Assistance Program (04-4-003)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely for an interagency agreement with the department of community, trade, and economic development to make, in cooperation with the public works board, loans to local governments and public water systems for projects and activities to protect and improve the state's drinking water facilities and resources.

Reappropriation:

Drinking Water Assistance Account—Federal	\$29,820,094
Prior Biennia (Expenditures)	\$16,401,906
Future Biennia (Projected Costs)	\$0
TOTAL	\$46,222,000

NEW SECTION. Sec. 243. FOR THE DEPARTMENT OF HEALTH

Drinking Water Assistance Program (06-4-001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for an interagency agreement with the department of community, trade and economic development to make, in cooperation with the public works board, loans to local governments and public water systems for projects and activities to protect and improve the state's drinking water facilities and resources.

Appropriation:

Drinking Water Assistance Account—Federal	\$28,122,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$112,488,000
TOTAL	\$140,610,000

NEW SECTION. Sec. 244. FOR THE DEPARTMENT OF HEALTH

Public Health Laboratory: Roof Replacement (06-1-002)

Appropriation:

State Building Construction Account—State	\$1,625,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,625,000

NEW SECTION. Sec. 245. FOR THE DEPARTMENT OF HEALTH

Cruise Ship Virus Study (06-2-950)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for a study of the risk to human health from viruses transmitted from grey water or black water discharges from cruise ships in Puget Sound. The study shall be submitted to the department of ecology for inclusion in the report to the legislature submitted under the

provisions of chapter . . . (Engrossed Second Substitute House Bill No. 1415), Laws of 2005.

Appropriation:

Water Quality Account—State	\$100,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$100,000

NEW SECTION. Sec. 246. FOR THE DEPARTMENT OF VETERANS AFFAIRS

240 Bed Nursing Facility (02-2-008)

Reappropriation:

General Fund—Federal	\$500,000
State Building Construction Account—State	\$1,670,000
Subtotal Reappropriation	\$2,170,000
Prior Biennia (Expenditures)	\$46,730,700
Future Biennia (Projected Costs)	\$0
TOTAL	\$48,900,700

NEW SECTION. Sec. 247. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Spokane Veterans Home Kitchen (04-2-004)

Reappropriation:

General Fund—Federal	\$200,000
Prior Biennia (Expenditures)	\$753,830
Future Biennia (Projected Costs)	\$0
TOTAL	\$953,830

NEW SECTION. Sec. 248. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Emergency Funds (06-1-006)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for unanticipated building or infrastructure repairs necessary for the protection of capital assets or protection of health or safety.

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$2,000,000
TOTAL	\$2,500,000

NEW SECTION. Sec. 249. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Infrastructure Projects - Savings (06-1-001)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 906 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

NEW SECTION. Sec. 250. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Minor Works Health, Safety, Code Requirements (06-1-007)

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$120,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$120,000

NEW SECTION. Sec. 251. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Minor Works Infrastructure Preservation (06-1-002)

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$55,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$816,912
TOTAL	\$871,912

NEW SECTION. Sec. 252. FOR THE DEPARTMENT OF CORRECTIONS

Coyote Ridge Corrections Center: Expansion (98-2-011)

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

- (1) \$179,000,000 is provided solely to design and construct a 1,280 bed medium-security prison at Coyote Ridge corrections center in Connell.
- (2) The facility shall be a publicly-owned and operated facility.
- (3) The new facility shall include at least 512 hybrid-security beds that have a lower cost to construct than conventional medium security beds but still maintain a medium security perimeter.
- (4) Design of the facility shall incorporate efficiencies in administrative space and support services realized by sharing services within the region. The department shall examine other states' and private industry standard designs, and report on how efficiencies will be incorporated into the design of the facility to the office of financial management and to legislative fiscal staff not later than September 1, 2005. Nothing in this subsection requires the department to adopt

design parameters that would endanger public safety or generate increased operating costs.

(5) Once opened, a portion of the new facility shall be used to alleviate the crowded conditions in reception at the Washington corrections center in Shelton.

Reappropriation:

State Building Construction Account—State \$921,140

Appropriation:

State Building Construction Account—State \$179,000,000

Prior Biennia (Expenditures) \$986,347

Future Biennia (Projected Costs) \$0

TOTAL \$180,907,487

NEW SECTION. Sec. 253. FOR THE DEPARTMENT OF CORRECTIONS

Correctional Industries Space (98-2-005)

Reappropriation:

State Building Construction Account—State \$3,549,994

Prior Biennia (Expenditures) \$4,250,006

Future Biennia (Projected Costs) \$0

TOTAL \$7,800,000

NEW SECTION. Sec. 254. FOR THE DEPARTMENT OF CORRECTIONS

Violent Offender/Truth in Sentencing Grant Administration (99-2-004)

Reappropriation:

General Fund—Federal \$66,667

Charitable, Educational, Penal, and Reformatory

Institutions Account—State \$8,333

Subtotal Reappropriation \$75,000

Prior Biennia (Expenditures) \$505,993

Future Biennia (Projected Costs) \$0

TOTAL \$580,993

NEW SECTION. Sec. 255. FOR THE DEPARTMENT OF CORRECTIONS

Monroe Corrections Center: 100-Bed Management and Segregation Unit (00-2-008)

Reappropriation:

General Fund—Federal \$819,229

State Building Construction Account—State \$18,674,000

Subtotal Reappropriation \$19,493,229

Prior Biennia (Expenditures) \$19,944,803

Future Biennia (Projected Costs) \$0

TOTAL \$39,438,032

NEW SECTION. Sec. 256. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: Replace Electrical Supply System (02-1-024)

Reappropriation:

State Building Construction Account—State	\$425,000
Prior Biennia (Expenditures)	\$7,878,715
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,303,715

NEW SECTION. Sec. 257. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: Replace Sanitary/Domestic Water Lines (02-1-026)

Reappropriation:

State Building Construction Account—State	\$925,000
Prior Biennia (Expenditures)	\$1,457,167
Future Biennia (Projected Costs)	\$1,962,235
TOTAL	\$4,344,402

NEW SECTION. Sec. 258. FOR THE DEPARTMENT OF CORRECTIONS

McNeil Island Corrections Center: Replace Submarine Electric Power Cable (04-1-006)

Reappropriation:

State Building Construction Account—State	\$3,200,000
Prior Biennia (Expenditures)	\$1,702,000
Future Biennia (Projected Costs)	\$1,856,331
TOTAL	\$6,758,331

NEW SECTION. Sec. 259. FOR THE DEPARTMENT OF CORRECTIONS

Omnibus Preservation: Facility Preservation (Minor Works) (04-1-001)

Reappropriation:

State Building Construction Account—State	\$1,200,000
Prior Biennia (Expenditures)	\$2,852,961
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,052,961

NEW SECTION. Sec. 260. FOR THE DEPARTMENT OF CORRECTIONS

Omnibus Preservation: Health, Safety, and Code (04-1-021)

Reappropriation:

State Building Construction Account—State	\$2,500,000
Prior Biennia (Expenditures)	\$1,250,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,750,000

NEW SECTION. Sec. 261. FOR THE DEPARTMENT OF CORRECTIONS

Omnibus Preservation: Infrastructure Preservation (Minor Works) (04-1-003)

Reappropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$2,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 262. FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center: Regional Infrastructure (04-2-008)

Reappropriation:

State Building Construction Account—State	\$4,593,000
---	-------------

Appropriation:

State Building Construction Account—State	\$10,078,942
Prior Biennia (Expenditures)	\$57,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$14,728,942

NEW SECTION. Sec. 263. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: Convert BAR Units from Medium to Close Custody (04-2-004)

Reappropriation:

State Building Construction Account—State	\$15,600,000
Prior Biennia (Expenditures)	\$2,209,202
Future Biennia (Projected Costs)	\$0
TOTAL	\$17,809,202

NEW SECTION. Sec. 264. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: North Close Security Compound (04-2-005)

Reappropriation:

State Building Construction Account—State	\$124,000,000
---	---------------

Appropriation:

General Fund—Federal	\$927,000
State Building Construction Account—State	\$5,891,000
Subtotal Appropriation	\$6,818,000
Prior Biennia (Expenditures)	\$9,940,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$140,758,000

NEW SECTION. Sec. 265. FOR THE DEPARTMENT OF CORRECTIONS

Clallam Bay Corrections Center: Replace Support Building Roof (06-1-044)

Appropriation:

State Building Construction Account—State	\$4,752,053
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,752,053

NEW SECTION. Sec. 266. FOR THE DEPARTMENT OF CORRECTIONS

Monroe Corrections Center: Health Care Facility (06-2-043)

Appropriation:

State Building Construction Account—State	\$700,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$44,695,000
TOTAL	\$45,395,000

NEW SECTION. Sec. 267. FOR THE DEPARTMENT OF CORRECTIONS

Clallam Bay Corrections Center: Install Close Custody Slider Doors (06-2-070)

Appropriation:

State Building Construction Account—State	\$750,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$10,850,000
TOTAL	\$11,600,000

NEW SECTION. Sec. 268. FOR THE DEPARTMENT OF CORRECTIONS

Monroe Corrections Center: Improve C and D Units Security Features (06-1-046)

Appropriation:

State Building Construction Account—State	\$2,898,269
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,898,269

NEW SECTION. Sec. 269. FOR THE DEPARTMENT OF CORRECTIONS

McNeil Island Corrections Center: Predesign/Design Replace/Stabilize Housing Unit Siding (06-1-005)

Appropriation:

State Building Construction Account—State	\$794,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$8,214,000
TOTAL	\$9,008,000

NEW SECTION. Sec. 270. FOR THE DEPARTMENT OF CORRECTIONS

Mission Creek: Add 120 Beds (06-2-017)

Appropriation:

State Building Construction Account—State	\$3,425,184
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,425,184

NEW SECTION. Sec. 271. FOR THE DEPARTMENT OF CORRECTIONS

Omnibus Preservation: Facility Preservation (Minor Works) (06-1-035)

Appropriation:

State Building Construction Account—State	\$3,833,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$17,200,000
TOTAL	\$21,033,000

NEW SECTION. Sec. 272. FOR THE DEPARTMENT OF CORRECTIONS

Omnibus Preservation: Health, Safety, and Code (Minor Works) (06-1-027)

Appropriation:

State Building Construction Account—State	\$4,100,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$18,054,000
TOTAL	\$22,154,000

NEW SECTION. Sec. 273. FOR THE DEPARTMENT OF CORRECTIONS

Omnibus Preservation: Infrastructure Preservation (Minor Works) (06-1-025)

Appropriation:

State Building Construction Account—State	\$3,826,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,800,000
TOTAL	\$20,626,000

NEW SECTION. Sec. 274. FOR THE DEPARTMENT OF CORRECTIONS

Omnibus Program: Programmatic Projects (Minor Works) (06-2-033)

Appropriation:

State Building Construction Account—State	\$1,915,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$12,000,000
TOTAL	\$13,915,000

NEW SECTION. Sec. 275. FOR THE DEPARTMENT OF CORRECTIONS

Stafford Creek Corrections Center: Correct Security Deficiencies (06-1-013)

Appropriation:

State Building Construction Account—State	\$1,593,266
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,593,266

NEW SECTION. Sec. 276. FOR THE DEPARTMENT OF CORRECTIONS

Emergency Projects (06-1-036)

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for unanticipated building or infrastructure repairs necessary for the protection of capital assets or protection of health or safety.

Appropriation:

Charitable, Educational, Penal, and Reformatory	
Institutions Account—State	\$900,000
State Building Construction Account—State	\$1,500,000
Subtotal Appropriation	\$2,400,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$9,600,000
TOTAL	\$12,000,000

NEW SECTION. Sec. 277. FOR THE DEPARTMENT OF CORRECTIONS

Infrastructure Projects - Savings (06-1-001)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 906 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

NEW SECTION. Sec. 278. FOR THE DEPARTMENT OF CORRECTIONS

Statewide: Inflow and Infiltration Analysis (06-2-034)

Appropriation:

Charitable, Educational, Penal, and Reformatory	
Institutions Account—State	\$250,000

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 279. FOR THE DEPARTMENT OF CORRECTIONS

Statewide: Telecommunications Infrastructure Master Plan (06-1-065)

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$150,000
---	-----------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$150,000

NEW SECTION. Sec. 280. FOR THE DEPARTMENT OF CORRECTIONS

Class II/Class III Offender Work Program Master Plan (06-2-075)

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$150,000
---	-----------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$150,000

NEW SECTION. Sec. 281. FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center: Predesign/Design Health Care Facility Remodel (06-2-072)

Appropriation:

State Building Construction Account—State	\$1,200,000
---	-------------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$10,834,000
TOTAL	\$12,034,000

NEW SECTION. Sec. 282. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: Design Kitchen Improvements (06-1-007)

Appropriation:

State Building Construction Account—State	\$629,552
---	-----------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$4,221,531
TOTAL	\$4,851,083

NEW SECTION. Sec. 283. FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center for Women: Predesign/Design Replace Steamlines (06-1-018)

Appropriation:

State Building Construction Account—State	\$1,016,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,016,000

NEW SECTION. Sec. 284. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: Design South Close Security Complex (06-2-021)

Appropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$54,917,295
TOTAL	\$58,917,295

NEW SECTION. Sec. 285. FOR THE DEPARTMENT OF CORRECTIONS

Statewide: Add Minimum Security Beds (06-2-950)

Appropriation:

State Building Construction Account—State	\$7,442,997
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$8,773,642
TOTAL	\$16,216,639

NEW SECTION. Sec. 286. FOR THE DEPARTMENT OF CORRECTIONS

WCCW: Healthcare Design (06-2-066)

Appropriation:

State Building Construction Account—State	\$1,200,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$7,877,000
TOTAL	\$9,077,000

NEW SECTION. Sec. 287. FOR THE EMPLOYMENT SECURITY DEPARTMENT

Employment Resource Center (05-2-001)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely to purchase and install state of the art equipment for a 40,000 square foot facility supporting work force development programs using funds available to the state in section 903(d) of the Social Security Act (Reed act).

Reappropriation:

Unemployment Compensation Administration	
Account—Federal.....	\$6,000,000
Prior Biennia (Expenditures).....	\$0

Future Biennia (Projected Costs)	\$0
TOTAL	\$6,000,000

NEW SECTION. Sec. 288. FOR THE EMPLOYMENT SECURITY DEPARTMENT

Walla Walla WorkSource Office: Training Room Expansion (06-2-001)

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for the construction of a training and meeting room at the Walla Walla WorkSource building using funds available to the state in section 903(d) of the Social Security Act (Reed act).

Appropriation:

Unemployment Compensation Administration	
Account—Federal	\$250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

**PART 3
NATURAL RESOURCES**

NEW SECTION. Sec. 301. FOR THE DEPARTMENT OF ECOLOGY
Water Supply Facilities (74-2-006)

Reappropriation:

State Drought Preparedness—State	\$205,000
State and Local Improvements Revolving Account	
(Water Supply Facilities)—State	\$2,869,674
Subtotal Reappropriation	\$3,074,674
Prior Biennia (Expenditures)	\$2,431,709
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,506,383

NEW SECTION. Sec. 302. FOR THE DEPARTMENT OF ECOLOGY
Centennial Clean Water Fund (86-2-007)

Reappropriation:

Public Works Assistance Account—State	\$287,359
Water Quality Account—State	\$1,293,656
Subtotal Reappropriation	\$1,581,015
Prior Biennia (Expenditures)	\$3,761,004
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,342,019

NEW SECTION. Sec. 303. FOR THE DEPARTMENT OF ECOLOGY
Local Toxics Grants for Cleanup and Prevention (88-2-008)

Reappropriation:

Local Toxics Control Account—State	\$8,400,000
Prior Biennia (Expenditures)	\$250,435,524

Future Biennia (Projected Costs).....	\$0
TOTAL	\$258,835,524

NEW SECTION. Sec. 304. FOR THE DEPARTMENT OF ECOLOGY
 Water Pollution Control Revolving Account (90-2-002)

Reappropriation:

Water Pollution Control Revolving Account—Federal.....	\$13,828,872
---	--------------

Prior Biennia (Expenditures).....	\$13,528,483
Future Biennia (Projected Costs).....	\$0
TOTAL	\$27,357,355

NEW SECTION. Sec. 305. FOR THE DEPARTMENT OF ECOLOGY
 Low-Level Nuclear Waste Disposal Trench Closure (97-2-012)

Reappropriation:

Site Closure Account—State.....	\$5,131,732
---------------------------------	-------------

Prior Biennia (Expenditures).....	\$1,087,335
Future Biennia (Projected Costs).....	\$0
TOTAL	\$6,219,067

NEW SECTION. Sec. 306. FOR THE DEPARTMENT OF ECOLOGY
 Water Irrigation Efficiencies (01-H-010)

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

(1) The reappropriations are provided solely to provide grants to conservation districts to assist the agricultural community to implement water conservation measures and irrigation efficiencies in the 16 critical basins. A conservation district receiving funds shall manage each grant to ensure that a portion of the water saved by the water conservation measure or irrigation efficiency will be placed as a purchase or a lease in the trust water rights program to enhance instream flows. The proportion of saved water placed in the trust water rights program must be equal to the percentage of the public investment in the conservation measure or irrigation efficiency. The percentage of the public investment may not exceed 85 percent of the total cost of the conservation measure or irrigation efficiency. In awarding grants, a conservation district shall give first priority to family farms.

(2) \$344,000 of the water quality account reappropriation is provided for water leases or projects in the Yakima river basin for aquifer recharge necessary to allow the use of drought wells to meet essential irrigation needs. Essential irrigation needs is defined as eighty percent of the water a farmer would ordinarily receive from the irrigation district, less the water that is actually delivered and regardless of crops grown.

Reappropriation:

State Building Construction Account—State	\$495,963
State and Local Improvements Revolving Account (Water Supply Facilities)—State	\$2,983,926
Water Quality Account—State	\$1,663,103
Subtotal Reappropriation	\$5,142,992

Prior Biennia (Expenditures)	\$1,979,657
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,122,649

NEW SECTION. Sec. 307. FOR THE DEPARTMENT OF ECOLOGY
 Water Measuring Devices (01-H-009)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely for water measuring devices and gauges. The department shall prioritize the distribution of water measuring devices and gauges to locations participating in the department of fish and wildlife's fish screens and cooperative compliance programs.

Reappropriation:

State Building Construction Account—State	\$1,611,941
Prior Biennia (Expenditures)	\$1,088,059
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,700,000

NEW SECTION. Sec. 308. FOR THE DEPARTMENT OF ECOLOGY
 Centennial Clean Water Fund (02-4-007)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the conditions and limitations of section 315, chapter 8, Laws of 2001 2nd sp. sess.

Reappropriation:

Water Quality Account—State	\$5,828,687
Prior Biennia (Expenditures)	\$7,874,259
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,702,946

NEW SECTION. Sec. 309. FOR THE DEPARTMENT OF ECOLOGY
 Padilla Bay Expansion (02-2-006)

Reappropriation:

General Fund—Federal	\$1,693,690
State Building Construction Account—State	\$281,734
Subtotal Reappropriation	\$1,975,424
Prior Biennia (Expenditures)	\$3,849,509
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,824,933

NEW SECTION. Sec. 310. FOR THE DEPARTMENT OF ECOLOGY
 Water Pollution Control Revolving Account (02-4-002)

Reappropriation:

Water Pollution Control Revolving Account—State	\$47,002,053
Water Pollution Control Revolving Account—Federal	\$774,704
Subtotal Reappropriation	\$47,776,757

Prior Biennia (Expenditures)	\$91,623,880
Future Biennia (Projected Costs)	\$0
TOTAL	\$139,400,637

NEW SECTION. Sec. 311. FOR THE DEPARTMENT OF ECOLOGY
 Water Supply Facilities (02-4-006)

Reappropriation:

State and Local Improvements Revolving Account (Water Supply Facilities)—State	\$3,243,909
Prior Biennia (Expenditures)	\$2,201,906
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,445,815

NEW SECTION. Sec. 312. FOR THE DEPARTMENT OF ECOLOGY
 Centennial Clean Water Fund (04-4-007)

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

(1) Up to \$7,547,044 of the water quality account—state reappropriation is provided for the extended grant payment to metro/King county.

(2) Up to \$10,000,000 of the state building construction account—state reappropriation is provided for the extended grant payment to Spokane for the Spokane-Rathdrum Prairie aquifer.

(3) \$2,000,000 of the state building construction account—state reappropriation is provided solely for water quality facility grants for communities with a population of less than 5,000. The department shall give priority consideration to: (a) Communities subject to a regulatory order from the department of ecology for noncompliance with water quality rules; (b) projects for which design work has been completed; and (c) projects with a local match from reasonable water quality rates and charges.

(4) \$760,000 of the state building construction account—state reappropriation is provided solely for the Klickitat wastewater treatment project.

(5) \$800,000 of the state building construction account—state reappropriation is provided solely for the comprehensive irrigation district management program.

(6) \$150,000 of the water quality account—state reappropriation is provided solely to contract with a regional salmon enhancement organization for planning activities related to improving water quality in the Hood Canal, particularly research, preservation, and restoration of molluscan ecosystem including bivalves and other important filtering organisms in Hood Canal.

(7) The remaining reappropriation in this section is provided for statewide water quality implementation and planning grants and loans. The department shall give priority consideration to projects located in basins with critical or depressed salmonid stocks.

(8) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the department shall file quarterly project progress reports with the office of financial management.

Reappropriation:

State Building Construction Account—State	\$10,981,926
---	--------------

Water Quality Account—State	\$8,109,075
Subtotal Reappropriation	\$19,091,001
Prior Biennia (Expenditures)	\$25,958,999
Future Biennia (Projected Costs)	\$0
TOTAL	\$45,050,000

NEW SECTION. Sec. 313. FOR THE DEPARTMENT OF ECOLOGY
 Columbia Basin Ground Water Management (04-2-952)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to the department of ecology to make grants to implement the Columbia basin ground water management area plan.

Reappropriation:

Water Quality Account—State	\$250,000
Prior Biennia (Expenditures)	\$250,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 314. FOR THE DEPARTMENT OF ECOLOGY
 Local Toxics Grants for Cleanup and Prevention (04-4-008)

Reappropriation:

Local Toxics Control Account—State	\$24,208,000
Prior Biennia (Expenditures)	\$249,042,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$273,250,000

NEW SECTION. Sec. 315. FOR THE DEPARTMENT OF ECOLOGY
 Site Closure - Nuclear Waste Trench Site Investigation (04-4-010)

Reappropriation:

Site Closure Account—State	\$1,135,470
Prior Biennia (Expenditures)	\$5,945
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,141,415

NEW SECTION. Sec. 316. FOR THE DEPARTMENT OF ECOLOGY
 Twin Lake Aquifer Recharge Project (04-2-951)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely to recover the department of ecology's cost in evaluating and issuing decisions on water right applications and restoration of the Twin Lakes in the Methow valley.

Reappropriation:

State Building Construction Account—State	\$715,000
Prior Biennia (Expenditures)	\$35,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$750,000

NEW SECTION. Sec. 317. FOR THE DEPARTMENT OF ECOLOGY
Water Pollution Control Revolving Account (04-4-002)

Reappropriation:

Water Pollution Control Revolving Account—State	\$54,935,416
Water Pollution Control Revolving Account—Federal	\$33,730,455
Subtotal Reappropriation	\$88,665,871
Prior Biennia (Expenditures)	\$65,128,587
Future Biennia (Projected Costs)	\$0
TOTAL	\$153,794,458

NEW SECTION. Sec. 318. FOR THE DEPARTMENT OF ECOLOGY
Water Rights Purchase/Lease (04-1-005)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided for the purchase or lease of water rights. It is also provided for the purpose of improving stream and river flows in fish critical basins under the trust water rights program under chapters 90.42 and 90.38 RCW.

Reappropriation:

State Drought Preparedness—State	\$1,470,000
Prior Biennia (Expenditures)	\$30,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 319. FOR THE DEPARTMENT OF ECOLOGY
Water Supply Facilities (04-4-006)

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

(1)(a) \$541,951 of the state building construction account reappropriation and \$1,733,812 of the state and local improvements revolving account reappropriation are provided solely for expenditure under a contract between the department of ecology and the United States bureau of reclamation for the development of plans, engineering, and financing reports and other preconstruction activities associated with the development of water storage projects in the Yakima river basin, consistent with the Yakima river basin water enhancement project, P.L. 103-434. It is the intent of the legislature that the contract include provision for participation of the Yakama nation, on a government-to-government basis, in the development of plans and other preconstruction activities concerning salmon recovery and instream flow. A portion of the reappropriation shall be expended to provide for the participation of the Yakama nation. The initial water storage feasibility study shall be for the Black Rock reservoir project. The department shall seek federal funds to augment the funding provided by this appropriation.

(b) Up to \$2,240,000 of the state building construction account—state reappropriation is provided for phase 1 of restoration of anadromous fish habitat in Manastash creek.

(c) The remainder of the state building construction account reappropriation is provided solely for grants for the development of plans, engineering and financing reports, acquiring land and facilities, and other preconstruction activities associated with the development of water storage and groundwater storage and recovery projects. Proposed projects must be consistent with the recommendations of the water storage task force and the governor's water strategy. Priority for the use of these funds must be given to: Projects that have been identified for early action through watershed plans, comprehensive irrigation district management plans, or similar plans; to projects that are part of an approved habitat conservation plan or other intergovernmental agreement; or to joint projects with federal entities such as the bureau of reclamation. The department shall develop and administer this grants program in conjunction with the departments of agriculture and fish and wildlife. Decisions regarding which projects are funded must be by unanimous agreement of all three departments. The department shall seek local and federal funds to augment the funding provided by this reappropriation.

(2) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the department shall file quarterly project progress reports with the office of financial management.

Reappropriation:

State Building Construction Account—State	\$5,759,519
State and Local Improvements Revolving Account	
(Water Supply Facilities)—State	\$4,779,173
Subtotal Reappropriation	\$10,538,692
Prior Biennia (Expenditures)	\$3,111,308
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,650,000

NEW SECTION. Sec. 320. FOR THE DEPARTMENT OF ECOLOGY
Quad Cities Water Right Mitigation (05-2-852)

Reappropriation:

State Building Construction Account—State	\$2,186,549
Prior Biennia (Expenditures)	\$13,451
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,200,000

NEW SECTION. Sec. 321. FOR THE DEPARTMENT OF ECOLOGY
Sunnyside Valley Irrigation District Water Conservation (05-2-851)

Reappropriation:

State and Local Improvements Revolving Account	
(Water Supply Facilities)—State	\$424,085

Appropriation:

State Building Construction Account—State	\$3,878,000
Prior Biennia (Expenditures)	\$100,915
Future Biennia (Projected Costs)	\$4,676,000
TOTAL	\$9,079,000

NEW SECTION. Sec. 322. FOR THE DEPARTMENT OF ECOLOGY

Water Conveyance Infrastructure Projects (05-2-850)

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

(1) \$1,500,000 of the state building construction account—state appropriation is provided solely for water conveyance facilities to implement the 1996 memorandum of agreement regarding utilization of Skagit river basin water resources for in-stream and out-of-stream purposes.

(2) \$300,000 of the state and local improvements revolving account—state appropriation is provided solely for the Bertrand watershed improvement district to address unpermitted water use and environmental compliance and fund early action planning, feasibility studies, and construction of early action projects.

(3) \$1,600,000 of the state building construction account—state appropriation is provided solely for the Middle Fork Nooksack river water diversion system.

(4) First priority from the remaining appropriation, \$1,475,000 from the state and local improvements revolving account—state appropriation, \$350,000 from the state building construction account—state appropriation, and the water quality account—state appropriation, shall be the following projects: Piping in the upper Yakima river; piping for Bull canal; piping for the Lowden number 2 ditch; diversion reconstruction and piping in Beaver creek; conjunctive use of surface and ground water in the Chewuch river; replacing surface diversions with wells and consolidation of diversions in the Entiat river; replacing a check dam with a siphon on Little Naneum creek; consolidate diversions on Simcoe creek; and ground water recharge of reclaimed water on Kitsap peninsula. The purpose of this funding is to develop projects and take other water management actions that benefit streamflows and enhance water supply to resolve conflicts among water needs for municipal water supply, agricultural water supply, and fish restoration. The streamflow or other public benefits secured from these projects should be commensurate with the investment of state funds.

(5) \$50,000 of the state building construction account—state reappropriation is provided solely for Ahtanum creek watershed restoration and Pine Hollow reservoir provided there is agreement among the Yakama nation, Ahtanum irrigation district, and other jurisdictional federal, state, and local agencies and entities to proceed with the environmental impact statement.

Reappropriation:

Water Quality Account—State	\$525,000
State Building Construction Account—State	\$3,500,000
State and Local Improvements Revolving Account	
(Water Supply Facilities)—State	\$1,772,949
Subtotal Reappropriation	\$5,797,949
Prior Biennia (Expenditures)	\$2,051
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,800,000

NEW SECTION. Sec. 323. FOR THE DEPARTMENT OF ECOLOGY Centennial Clean Water Program (06-4-007)

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

(1) Up to \$10,000,000 of the state building construction account—state appropriation is provided for the extended grant payment to Spokane for the Spokane-Rathdrum Prairie aquifer.

(2) \$5,000,000 of the state building construction account—state appropriation is provided solely for water quality grants for hardship communities with a population of less than 5,000. The department shall give priority consideration to: (a) Communities subject to a regulatory order from the department of ecology for noncompliance with water quality rules; (b) projects for which design work has been completed; and (c) projects with a local match from reasonable water quality rates and charges.

(3) \$1,000,000 of the state building construction account—state appropriation is provided solely to design appropriate wastewater treatment facilities to serve the Hoodspout to Skokomish reservation areas of Hood Canal. The exact facilities will be based upon the recommendations from an analysis of wastewater management options for the Hoodspout to Skokomish river currently being undertaken by Mason county.

(4) \$750,000 of the state building construction account—state appropriation is provided solely for assistance in management and clean up activities at Long Lake in Kitsap county and \$50,000 of the state building construction account—state appropriation is provided solely for assistance in cleaning up Wapato Lake in Pierce county. The assistance is contingent on the lake communities adopting a lake management plan that meets the department's requirement.

(5) \$320,000 of the water quality account—state appropriation is provided solely to Mason county to develop a septic system data base and identify failing septic systems in Hood Canal.

(6) \$70,000 of the water quality account—state appropriation is provided solely to Kitsap county for surveys of septic systems in Hood Canal.

(7) \$70,000 of the water quality account—state appropriation is provided solely to Jefferson county for surveys of septic systems in Hood Canal.

(8) The remaining appropriation in this section is provided for statewide water quality implementation and planning grants and loans.

Appropriation:

State Building Construction Account—State	\$20,000,000
Water Quality Account—State	\$7,500,000
State Toxics Control Account—State	\$10,500,000
Subtotal Appropriation	\$38,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$211,808,000
TOTAL	\$249,808,000

NEW SECTION. Sec. 324. FOR THE DEPARTMENT OF ECOLOGY

State Drought Preparedness (05-4-009)

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

(1) The reappropriation in this section is provided solely for response to the statewide drought that was declared pursuant to chapter 43.83B RCW. The

department of ecology may provide funding or compensation for purchase or lease of water rights and to public bodies as defined in RCW 43.83B.050 in connection with projects and measures designed to alleviate drought conditions which may affect: Public health and safety; drinking water supplies; agricultural activities; or fish and wildlife survival.

(2) Projects or measures for which funding or compensation will be provided must be connected with a water system, water source, or water body which is receiving, or has been projected to receive, less than seventy-five percent of normal water supply, as the result of natural drought conditions. This reduction in water supply must be such that it is causing, or will cause, undue hardship for the entities or fish or wildlife depending on the water supply. General criteria for guidelines to be established by the department of ecology for distribution of funds must include: A balanced and equitable distribution of the funds among the different sectors affected by drought; a funding process that ensures funds are available for drought impacts that arise both early and later during the course of the drought; and preference for projects that leverage other federal and local funds.

(3) Up to \$1,500,000 of the reappropriation in this section is provided to the Roza irrigation district for the purchase or lease of water rights.

Reappropriation:

State Drought Preparedness Account—State	\$8,200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,200,000

NEW SECTION. Sec. 325. FOR THE DEPARTMENT OF ECOLOGY

Local Toxics Grants for Cleanup and Prevention (06-4-008)

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

(1) \$4,000,000 of the appropriation is provided solely for grants to local governments for local projects that implement the state "never waste" plan. Grant funds will emphasize additional organics composting and conversion, green building, and moderate risk waste projects described in the plan. Of this amount, up to \$1,600,000 may be used for one-time funding for auto switch recycling consistent with the memorandum of agreement being finalized with the auto recyclers association.

(2) \$2,000,000 of the appropriation is provided for emission reduction projects for local governments to retrofit public sector diesel engines with exhaust emission control devices or to make other modifications or operational changes, including cleaner fuels, to allow public sector fleets to reduce their emissions.

(3) \$3,000,000 of the appropriation is provided solely for grants to local governments needing assistance in complying with the new phase II storm water permit requirements. Of this amount, \$300,000 is provided solely for Mason county to prepare storm water management plans for Belfair and Hoodport consistent with the storm water program in the Puget Sound conservation and recovery plan.

(4) \$60,000,000 of the appropriation is provided solely for remedial action grants. Of this amount, \$1,000,000 is provided to the town of Warden to respond to contamination of their existing water system.

(5) From within this appropriation, the department shall prepare an online guide to help small businesses and homeowners learn what to do if they discover toxic wastes on their property. The guide shall provide information about local resources for clean up and disposal of toxic wastes.

Appropriation:

Local Toxics Control Account—State	\$80,000,000
Prior Biennia (Expenditures)	\$45,000,000
Future Biennia (Projected Costs)	\$180,000,000
TOTAL	\$315,000,000

NEW SECTION. Sec. 326. FOR THE DEPARTMENT OF ECOLOGY
Minor Works (06-1-004)

Appropriation:

State Building Construction Account—State	\$555,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$555,000

NEW SECTION. Sec. 327. FOR THE DEPARTMENT OF ECOLOGY
Safe Soil Remediation and Awareness Projects (06-2-001)

Appropriation:

State Toxics Control Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 328. FOR THE DEPARTMENT OF ECOLOGY
Water Irrigation Efficiencies (06-2-009)

Appropriation:

State Building Construction Account—State	\$3,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$14,000,000
TOTAL	\$17,500,000

NEW SECTION. Sec. 329. FOR THE DEPARTMENT OF ECOLOGY
Water Pollution Control Revolving Account (06-4-002)

The appropriations in this section are subject to the following conditions and limitations: The department shall give priority loan funding consideration to on-site septic system rehabilitation and replacement programs in Mason, Kitsap, and Jefferson counties for at least \$1,000,000 from the water pollution control revolving account—state in the second year of the funding cycle.

Appropriation:

Water Pollution Control Revolving

Account—State	\$162,839,146
Water Pollution Control Revolving Account—Federal	\$76,777,140
Subtotal Appropriation	\$239,616,286
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$912,000,000
TOTAL	\$1,151,616,286

**NEW SECTION. Sec. 330. FOR THE DEPARTMENT OF ECOLOGY
Watershed Plan Implementation and Flow Achievement (06-2-003)**

The appropriation in this section is subject to the following conditions and limitations: \$12,000,000 of the appropriation is provided solely for projects and water right acquisitions to support watershed planning efforts and achieving instream flows subject to the following project types, conditions, and limitations:

(1) Up to \$1,353,172 of the appropriation is provided to improve irrigation efficiency and to achieve associated flow improvements in the Twisp and Methow rivers by providing for cleaning and lining and/or piping of 30,943 linear feet of the irrigation canal within the lower (downstream) seven miles of the Methow Valley irrigation district's west canal. Of this amount, up to \$100,000 is provided for a neutral independent consultant to provide management assistance to the Methow Valley irrigation district for purposes of identifying structural and operational improvements to increase overall system water use efficiency.

(2) Up to \$200,000 of the appropriation is provided for a portion of the costs of the project level environmental impact statement for the Ahtanum creek watershed restoration program, including construction of the Pine Hollow reservoir, provided there is agreement among the Yakama nation, Ahtanum irrigation district, and other jurisdictional federal, state, and local agencies and entities to proceed with the environmental impact statement.

(3) Up to \$75,000 of the appropriation is provided to formalize the Ahtanum creek watershed restoration program, including identification of site specific habitat improvement projects and determination of the most appropriate restoration program alternative to implement.

(4) Up to \$1,500,000 of the appropriation is provided to reduce diversions from the Dungeness river through pipeline projects identified in the Dungeness river comprehensive irrigation district management plan. For at least one year from the effective date of this section, while the parties seek resolution of the court action filed in Thurston county superior court, No. 04-2-00078-2, none of these funds may be allocated to any projects in the Dungeness river basin that are within the area that is the zone of contribution for ground and surface water infiltration to the existing Graysmarsh wetland.

(5) \$100,000 of the appropriation is provided solely to the city of Normandy Park to implement the basin plan for the Miller/Walker and Salmon creek basins.

(6) Water storage grants for the development of plans, engineering and financing reports, acquiring lands and facilities, and other preconstruction activities associated with the development of water storage and groundwater storage and recovery projects. Proposed projects should be consistent with the recommendations of the water storage task force. The department of ecology

would issue grants in consultation with the departments of agriculture and fish and wildlife.

(7) Infrastructure improvement projects and other water management actions that benefit stream flows and enhance water supply to resolve conflicts among water needs for municipal water supply, agriculture water supply, and fish restoration. The stream flow improvements and other public benefits secured from these projects should be commensurate with the investment of state funds.

(8) Projects for planning, acquisition, construction, and improvement of agriculture water supply facilities and achieving water conservation and water use efficiency improvements.

(9) Financial assistance to purchase and install water measuring devices at points of diversion and withdrawal. Preference would be given to fish-critical basins, to areas participating in the department of fish and wildlife fish screening and cooperative compliance programs, and to basins where watershed planning has determined additional water diversion and withdrawal information is needed.

(10) Funding for acquisition of either water or water rights, or both, for instream flow achievement and establishment of water accounts. The appropriation is provided for either the purchase or lease, or both, of water rights. It is also provided for the purpose of improving stream and river flows in fish critical basins under the trust water rights program under chapters 90.42 and 90.38 RCW.

(11) The department shall provide small grants to watershed councils that have completed watershed plans. The grants are intended to support periodic meetings of the councils so that they can monitor the implementation of watershed plans.

Appropriation:

State Building Construction Account—State	\$12,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$48,000,000
TOTAL	\$60,000,000

NEW SECTION. Sec. 331. FOR THE DEPARTMENT OF ECOLOGY
Wetland Mitigation Bank Demonstration—Chehalis (06-4-950)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided for a grant to the port of Chehalis for a demonstration wetland mitigation bank.

Appropriation:

State Building Construction Account—State	\$100,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$100,000

NEW SECTION. Sec. 332. FOR THE DEPARTMENT OF ECOLOGY
Columbia River Initiative (06-2-010)

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

(1) \$6,000,000 is provided solely for feasibility studies related to off-mainstem storage projects and impacts of changing operations at the Potholes reservoir, and grant funding for the purchase and installation of water measuring devices.

(2) Of the amount appropriated in this section, \$10,000,000 may not be expended prior to enactment of state legislation that establishes the policy requirements for a new water resources and water rights management program for the Columbia river mainstem. If such legislation is not enacted prior to June 30, 2006, this amount shall lapse.

Appropriation:

State Building Construction Account—State	\$16,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$52,610,000
TOTAL	\$68,610,000

NEW SECTION. Sec. 333. FOR THE STATE PARKS AND RECREATION COMMISSION

Cama Beach Donation for Commons and Restroom/Bathhouse (99-2-001)

The reappropriation in this section is subject to the following conditions and limitations: The funding is solely and directly from donations intended for this facility.

Reappropriation:

Parks Renewal and Stewardship Account—Private/Local	\$249,951
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$249,951

NEW SECTION. Sec. 334. FOR THE STATE PARKS AND RECREATION COMMISSION

Lewis and Clark Bicentennial (00-1-010)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation in this section is provided solely to renovate facilities and enhance exhibits at Lewis and Clark trail interpretive centers located at Sacajawea state park, Beacon Rock state park, and Cape Disappointment state park.

Reappropriation:

State Building Construction Account—State	\$1,600,000
Prior Biennia (Expenditures)	\$2,437,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,037,000

NEW SECTION. Sec. 335. FOR THE STATE PARKS AND RECREATION COMMISSION

Major Park Renovation - Cama Beach (02-1-022)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided to complete electrical power, water, and sewer utilities, and for other park development and renovation.

Reappropriation:

State Building Construction Account—State	\$1,200,000
Parks Renewal and Stewardship Account—State	\$200,000
Subtotal Reappropriation	\$1,400,000
 Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,400,000

NEW SECTION. Sec. 336. FOR THE STATE PARKS AND RECREATION COMMISSION

Park Housing (02-2-008)

Reappropriation:

State Building Construction Account—State	\$150,000
 Prior Biennia (Expenditures)	\$1,150,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,300,000

NEW SECTION. Sec. 337. FOR THE STATE PARKS AND RECREATION COMMISSION

Spokane Centennial Trail - Unanticipated receipt (03-2-001)

Reappropriation:

General Fund—Private/Local	\$50,000
 Prior Biennia (Expenditures)	\$162,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$212,000

NEW SECTION. Sec. 338. FOR THE STATE PARKS AND RECREATION COMMISSION

Deception Pass Renovation (04-1-019)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is for design and permits for park and marine crew area relocation.

Reappropriation:

State Building Construction Account—State	\$150,000
 Prior Biennia (Expenditures)	\$100,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 339. FOR THE STATE PARKS AND RECREATION COMMISSION

Historic Stewardship (04-1-010)

Reappropriation:

State Building Construction Account—State	\$350,000
---	-----------

Prior Biennia (Expenditures)	\$650,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 340. FOR THE STATE PARKS AND RECREATION COMMISSION

Minor Works: Facility Preservation (04-1-001)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations in this section are provided solely to continue minor works projects that reduce the deferred maintenance backlog.

Reappropriation:

State Building Construction Account—State	\$147,269
Parks Renewal and Stewardship Account—State	\$2,600,000
Subtotal Reappropriation	\$2,747,269
Prior Biennia (Expenditures)	\$4,990,231
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,737,500

NEW SECTION. Sec. 341. FOR THE STATE PARKS AND RECREATION COMMISSION

Parkland Acquisition (04-2-013)

Reappropriation:

Parkland Acquisition Account—State	\$412,690
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$412,690

NEW SECTION. Sec. 342. FOR THE STATE PARKS AND RECREATION COMMISSION

Recreation Development (04-2-002)

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

(1) Up to \$100,000 of the reappropriation shall be used to retain a consultant to conduct a predesign study for a headquarters building located in Thurston county. The predesign shall compare a new leased facility against options to build and evaluate appropriate funding strategies.

(2) \$900,000 of the reappropriation is provided solely to install fee collection stations at selected parks statewide.

(3) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the commission shall file quarterly project progress reports with the office of financial management.

Reappropriation:

State Building Construction Account—State	\$700,000
Prior Biennia (Expenditures)	\$2,200,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,900,000

NEW SECTION. Sec. 343. FOR THE STATE PARKS AND RECREATION COMMISSION

Statewide Boat Pumpout - Federal Clean Vessel Act (04-4-014)

Reappropriation:

General Fund—Federal	\$800,000
Prior Biennia (Expenditures)	\$200,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 344. FOR THE STATE PARKS AND RECREATION COMMISSION

Jefferson County Public Utility District Grant (05-1-006)

Reappropriation:

Parks Renewal and Stewardship Account—Private/Local	\$265,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$265,000

NEW SECTION. Sec. 345. FOR THE STATE PARKS AND RECREATION COMMISSION

Donation for Construction of Cama Beach State Park (06-2-853)

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

- (1) The commission will provide an update to the project request report on the status of the Cama Beach park before allotments are made from this appropriation.
- (2) The commission shall provide project reports to the office of financial management and the legislature every six months.

Appropriation:

Parks Renewal and Stewardship Account—Private/Local	\$1,916,036
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,916,036

NEW SECTION. Sec. 346. FOR THE STATE PARKS AND RECREATION COMMISSION

Beacon Rock - Pierce Trust (06-1-030)

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

- (1) The appropriation in this section is provided solely for improvements to the group camp at Beacon Rock state park.
- (2) The funding has been provided solely and directly for this project.

Appropriation:

Parks Renewal and Stewardship Account—Private/Local	\$350,000
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs).....	\$0
TOTAL	\$350,000

NEW SECTION. Sec. 347. FOR THE STATE PARKS AND RECREATION COMMISSION

Cama Beach - New Destinations (06-2-011)

Appropriation:

State Building Construction Account—State	\$2,820,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$1,700,000
TOTAL	\$4,520,000

NEW SECTION. Sec. 348. FOR THE STATE PARKS AND RECREATION COMMISSION

Coastal Parks - Renewed Traditions (06-2-012)

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 349. FOR THE STATE PARKS AND RECREATION COMMISSION

Hoko River Initial Property Development (06-2-850)

Appropriation:

State Building Construction Account—State	\$100,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$100,000

NEW SECTION. Sec. 350. FOR THE STATE PARKS AND RECREATION COMMISSION

Cowan Barn and House (06-2-851)

Appropriation:

State Building Construction Account—State	\$350,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$350,000

NEW SECTION. Sec. 351. FOR THE STATE PARKS AND RECREATION COMMISSION

Deception Pass - Renewed Traditions (06-2-013)

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$6,000,000
TOTAL	\$7,000,000

NEW SECTION. Sec. 352. FOR THE STATE PARKS AND RECREATION COMMISSION

Emergency and Unforeseen Needs (06-1-024)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is not intended to be used for routine maintenance.

Appropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$3,000,000
TOTAL	\$3,500,000

NEW SECTION. Sec. 353. FOR THE STATE PARKS AND RECREATION COMMISSION

Facility Preservation - Facilities (06-1-004)

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

(1) Up to \$2,000,000 may be used toward deferred maintenance projects after the reappropriation in project 04-1-001 has been expended. A list will be provided to the office of financial management before funds from this project will be allotted for deferred maintenance.

(2) \$600,000 of the appropriation is provided solely to replace the wastewater system at Dosewallips state park.

(3) The amount provided in this section is sufficient to repair or replace the washed out bridge on the perimeter trail at Dash Point state park.

(4) \$750,000 of the appropriation is provided solely for the city of Bellevue's acquisition of parcels between Meydenbauer Beach park and the city-owned marina.

Appropriation:

State Building Construction Account—State	\$16,750,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$16,750,000

NEW SECTION. Sec. 354. FOR THE STATE PARKS AND RECREATION COMMISSION

Federal Authority (06-2-021)

Appropriation:

General Fund—Federal	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 355. FOR THE STATE PARKS AND RECREATION COMMISSION

Fort Worden - Facilities (06-1-003)

Appropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$10,000,000
TOTAL	\$12,000,000

NEW SECTION. Sec. 356. FOR THE STATE PARKS AND RECREATION COMMISSION

Historic Stewardship - Stewardship (06-1-002)

Appropriation:

State Building Construction Account—State	\$2,015,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$12,000,000
TOTAL	\$14,015,000

NEW SECTION. Sec. 357. FOR THE STATE PARKS AND RECREATION COMMISSION

Ice Age Floods - Cherished Resources (06-2-014)

Appropriation:

State Building Construction Account—State	\$300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,000,000
TOTAL	\$1,300,000

NEW SECTION. Sec. 358. FOR THE STATE PARKS AND RECREATION COMMISSION

Local Authority (06-2-022)

Appropriation:

Parks Renewal and Stewardship Account—Private/Local	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 359. FOR THE STATE PARKS AND RECREATION COMMISSION

Natural Resources - Stewardship (06-1-001)

Appropriation:

State Building Construction Account—State	\$860,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$860,000

NEW SECTION. Sec. 360. FOR THE STATE PARKS AND RECREATION COMMISSION

Parkland Acquisition Account (06-2-020)

Appropriation:

Parkland Acquisition Account—State	\$4,000,000
--	-------------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000
TOTAL	\$20,000,000

NEW SECTION. Sec. 361. FOR THE STATE PARKS AND RECREATION COMMISSION

Rocky Reach - Chelan County Public Utility District (06-1-023)

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

- (1) The appropriation in this section is provided to construct and surface the northern mile of Rocky Reach trail, and partially fund installation of signs, interpretive panels, and bridges related to the 5.1 mile project.
- (2) The funding is provided by Chelan county public utility district solely and directly for the work referenced in subsection (1) of this section.

Appropriation:

Parks Renewal and Stewardship Account—Private/Local	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 362. FOR THE STATE PARKS AND RECREATION COMMISSION

Statewide Boat Pumpout - Federal Clean Vessel Act (06-4-018)

Appropriation:

General Fund—Federal	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$4,000,000
TOTAL	\$5,000,000

NEW SECTION. Sec. 363. FOR THE STATE PARKS AND RECREATION COMMISSION

Trails (06-2-017)

The appropriation in this section is subject to the following conditions and limitations: \$150,000 of the appropriation is provided solely for the development of the North creek trail in the city of Mill Creek.

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$4,000,000
TOTAL	\$5,000,000

NEW SECTION. Sec. 364. FOR THE STATE PARKS AND RECREATION COMMISSION

Southeast Washington Parks (06-2-852)

Appropriation:

State Building Construction Account—State	\$250,000
---	-----------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 365. FOR THE STATE PARKS AND RECREATION COMMISSION

Park Development (06-1-950)

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

- (1) \$250,000 is provided solely to construct a pedestrian/emergency vehicle access bridge across Connor creek to allow for beach access.
- (2) \$500,000 is provided solely to determine long-term park zoning, design park amenities and services, and provide site permit and initial construction development at Nisqually-Mashel.
- (3) \$150,000 is provided solely for initial park development at Sequim Bay-Miller Peninsula.

Appropriation:

State Building Construction Account—State	\$900,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$900,000

NEW SECTION. Sec. 366. FOR THE STATE PARKS AND RECREATION COMMISSION

Revenue Creation - Financial Strategy (06-2-010)

Appropriation:

State Building Construction Account—State	\$2,100,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$13,000,000
TOTAL	\$15,100,000

NEW SECTION. Sec. 367. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Boating Facilities Projects (BFP) (98-2-001)

Reappropriation:

Recreation Resources Account—State	\$4,116,820
Prior Biennia (Expenditures)	\$15,457,191
Future Biennia (Projected Costs)	\$0
TOTAL	\$19,574,011

NEW SECTION. Sec. 368. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Firearms and Archery Range Program (FARP) (98-2-004)

Reappropriation:

Firearms Range Account—State	\$31,478
Prior Biennia (Expenditures)	\$542,191
Future Biennia (Projected Costs)	\$0

TOTAL\$573,669

NEW SECTION. Sec. 369. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Nonhighway Off-road Vehicle Program (NOVA) (98-2-002)

Reappropriation:

Nonhighway and Off-Road Vehicle Activities

Program Account—State \$1,243,986

Prior Biennia (Expenditures)..... \$9,851,937

Future Biennia (Projected Costs)..... \$0

TOTAL \$11,095,923

NEW SECTION. Sec. 370. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Washington Wildlife and Recreation Program (WWRP) (98-2-003)

The reappropriations in this section are subject to the following conditions and limitations: Any amount of the reappropriations that is not obligated to a specific project may be used to fund alternate projects approved by the legislature from the same account in biennia succeeding that in which the moneys were originally appropriated.

Reappropriation:

Outdoor Recreation Account—State \$4,547,515

Habitat Conservation Account—State..... \$1,170,894

Subtotal Reappropriation \$5,718,409

Prior Biennia (Expenditures)..... \$71,883,173

Future Biennia (Projected Costs)..... \$0

TOTAL \$77,601,582

NEW SECTION. Sec. 371. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Aquatic Lands Enhancement Account Reappropriation (00-2-014)

Reappropriation:

Aquatic Lands Enhancement Account—State..... \$161,668

Prior Biennia (Expenditures)..... \$1,097,397

Future Biennia (Projected Costs)..... \$0

TOTAL \$1,259,065

NEW SECTION. Sec. 372. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Salmon Recovery Funding Board Programs (SRFB) (00-2-001)

Reappropriation:

General Fund—Federal \$11,227,424

Salmon Recovery Account—State \$2,366,010

Subtotal Reappropriation \$13,593,434

Prior Biennia (Expenditures)..... \$88,031,707

Future Biennia (Projected Costs)..... \$0

TOTAL \$101,625,141

NEW SECTION. Sec. 373. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Aquatic Lands Enhancement Grants (02-4-018)

Reappropriation:

Aquatic Lands Enhancement Account—State	\$213,720
Prior Biennia (Expenditures)	\$2,440,712
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,654,432

NEW SECTION. Sec. 374. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Boating Facilities Program (BFP) (02-4-001)

Reappropriation:

Recreation Resources Account—State	\$2,455,586
Prior Biennia (Expenditures)	\$4,478,427
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,934,013

NEW SECTION. Sec. 375. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Boating Infrastructure Grant (BIG) (02-4-010)

Reappropriation:

Recreation Resources Account—Federal	\$1,322,153
Prior Biennia (Expenditures)	\$677,847
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 376. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Firearms and Archery Range Program (02-0-001)

Reappropriation:

Firearms Range Account—State	\$44,677
Prior Biennia (Expenditures)	\$355,323
Future Biennia (Projected Costs)	\$0
TOTAL	\$400,000

NEW SECTION. Sec. 377. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Hatchery Management Program (02-4-009)

Reappropriation:

General Fund—Federal	\$3,704,190
Prior Biennia (Expenditures)	\$7,495,810
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,200,000

NEW SECTION. Sec. 378. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Land and Water Conservation Fund (02-4-005)

Reappropriation:

Recreation Resources Account—Federal	\$4,904,639
Prior Biennia (Expenditures)	\$2,595,361
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,500,000

NEW SECTION. Sec. 379. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

National Recreation Trails Program (NRTP) (02-4-006)

Reappropriation:

Recreation Resources Account—Federal	\$178,120
Prior Biennia (Expenditures)	\$1,954,816
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,132,936

NEW SECTION. Sec. 380. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Nonhighway Off-Road Vehicle (NOVA) (02-4-002)

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

(1) The reappropriation for the nonhighway and off road vehicle program under RCW 46.09.170(2)(d)(i) is subject to the following conditions and limitations: A portion of the reappropriation may be used for grants to projects to research, develop, publish, and distribute informational guides and maps of nonhighway and off road vehicle trails and associated facilities meeting the requirements, guidelines, spirit, and intent of the federal Americans with disabilities act.

(2) The reappropriation for the nonhighway and off road vehicle program under RCW 46.09.170(2)(d)(ii) is subject to the following conditions and limitations: The portion of the reappropriation that applies to grants for capital facilities may be used for grants to projects that meet the requirements, guidelines, spirit, and intent of the federal Americans with disabilities act and do not compromise or impair sensitive natural resources. The portion of the reappropriation that applies to grants for management, maintenance, and operation of existing off road vehicle recreation facilities may be used to bring the facilities into compliance with the requirements, guidelines, spirit, and intent of the federal Americans with disabilities act.

(3) The reappropriation for the nonhighway and off road vehicle program under RCW 46.09.170(2)(d)(iii) is subject to the following conditions and limitations: Funds may be expended for nonhighway road recreation facilities which may include recreational trails that are accessed by nonhighway roads and are intended solely for nonmotorized recreational uses.

Reappropriation:

Nonhighway and Off-Road Vehicle Activities Program Account—State	\$1,262,736
---	-------------

Prior Biennia (Expenditures)	\$4,264,815
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,527,551

NEW SECTION. Sec. 381. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Salmon Recovery Funding Board Programs (SRFB) (02-4-007)

Reappropriation:

General Fund—Federal	\$15,785,129
State Building Construction Account—State	\$5,283,674
Subtotal Reappropriation	\$21,068,803

Prior Biennia (Expenditures)	\$53,924,197
Future Biennia (Projected Costs)	\$0
TOTAL	\$74,993,000

NEW SECTION. Sec. 382. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Wildlife and Recreation Program (WWRP) (02-4-003)

The reappropriations in this section are subject to the following conditions and limitations: Any amount of the reappropriations that is not obligated to a specific project may be used to fund projects in the following order: (1) The department of natural resources Cypress Island project; and (2) alternate projects approved by the legislature from the same account in biennia succeeding that in which the funds were originally appropriated.

Reappropriation:

Outdoor Recreation Account—State	\$2,041,864
Habitat Conservation Account—State	\$6,928,926
Subtotal Reappropriation	\$8,970,790

Prior Biennia (Expenditures)	\$36,029,210
Future Biennia (Projected Costs)	\$0
TOTAL	\$45,000,000

NEW SECTION. Sec. 383. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Aquatic Lands Enhancement (04-4-018)

Reappropriation:

Aquatic Lands Enhancement Account—State	\$4,329,280
Prior Biennia (Expenditures)	\$1,027,120
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,356,400

NEW SECTION. Sec. 384. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Boating Infrastructure Grant (BIG) (04-4-009)

Reappropriation:

General Fund—Federal	\$1,800,000
Prior Biennia (Expenditures)	\$200,000

Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 385. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Boating Facilities Program (BFP) (04-4-003)

Reappropriation:

Recreation Resources Account—State	\$3,753,480
Prior Biennia (Expenditures)	\$3,753,479
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,506,959

NEW SECTION. Sec. 386. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Firearms and Archery Range Program (04-4-006)

Reappropriation:

Firearms Range Account—State	\$144,997
Prior Biennia (Expenditures)	\$105,003
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 387. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Family Forest Fish Blockages Program (04-4-011)

Reappropriation:

State Building Construction Account—State	\$780,379
Prior Biennia (Expenditures)	\$1,219,621
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 388. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Hatchery Management Program (04-4-010)

Reappropriation:

General Fund—Federal	\$7,505,749
Prior Biennia (Expenditures)	\$2,494,251
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,000,000

NEW SECTION. Sec. 389. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Land and Water Conservation Fund (04-4-007)

Reappropriation:

General Fund—Federal	\$2,833,091
Prior Biennia (Expenditures)	\$2,901,909
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,735,000

NEW SECTION. Sec. 390. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

National Recreation Trails Program (NRTP) (04-4-008)

Reappropriation:

General Fund—Federal	\$1,130,000
Prior Biennia (Expenditures)	\$1,130,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,260,000

NEW SECTION. Sec. 391. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Nonhighway and Off-Road Vehicle Activities Program (NOVA) (04-4-004)

Reappropriation:

NOVA Program Account—State	\$5,492,729
Prior Biennia (Expenditures)	\$1,433,581
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,926,310

NEW SECTION. Sec. 392. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Salmon Recovery Funding Board Programs (SRFB) (04-4-001)

Reappropriation:

General Fund—Federal	\$32,832,305
State Building Construction Account—State	\$11,500,000
Subtotal Reappropriation	\$44,332,305
Prior Biennia (Expenditures)	\$1,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$45,332,305

NEW SECTION. Sec. 393. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Washington Wildlife and Recreation Program (WWRP) (04-4-002)

The reappropriations in this section are subject to the following conditions and limitations: Any amount of the reappropriations that is not obligated to a specific project may be used to fund alternate projects approved by the legislature from the same account in biennia succeeding that in which the moneys were originally appropriated.

Reappropriation:

Outdoor Recreation Account—State	\$12,272,014
Habitat Conservation Account—State	\$16,707,815
Subtotal Reappropriation	\$28,979,829
Prior Biennia (Expenditures)	\$16,022,171
Future Biennia (Projected Costs)	\$0
TOTAL	\$45,002,000

NEW SECTION. Sec. 394. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Aquatic Lands Enhancement Account (06-4-018)

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

(1) The appropriation in this section is provided for a list of projects in LEAP capital document No. 2005-15, developed on April 9, 2005.

(2) The committee shall submit a list of recommended projects to be funded from the aquatic lands enhancement account in the 2007-2009 capital budget. The list shall result from a competitive grants program developed by the committee based upon, at a minimum: (a) A uniform criteria for selecting projects and awarding grants for up to fifty percent of the total project cost; (b) local community support for the project; and (c) environmental benefits to be derived from projects. The list of projects must be submitted to the office of financial management by September 15, 2006.

Appropriation:

Aquatic Lands Enhancement Account—State	\$5,024,500
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$20,900,000
TOTAL	\$25,924,500

NEW SECTION. Sec. 395. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Boating Facilities Program (BFP) (06-4-003)

Appropriation:

Recreation Resources Account—State	\$8,350,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$36,597,535
TOTAL	\$44,947,535

NEW SECTION. Sec. 396. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Boating Infrastructure Grant (BIG) (06-4-009)

Appropriation:

General Fund—Federal	\$200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$800,000
TOTAL	\$1,000,000

NEW SECTION. Sec. 397. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Firearms and Archery Range Program (06-4-006)

Appropriation:

Firearms Range Account—State	\$222,300
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$777,470
TOTAL	\$999,770

NEW SECTION. Sec. 398. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Family Forest Fish Passage Program (06-4-011)

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

(1) The appropriation is provided solely for the salmon recovery funding board in consultation with the small forest landowner office of the department of natural resources and the department of fish and wildlife to provide grants to correct fish passage blockages on nonindustrial forest lands. Selection of projects must be coordinated with the other salmon recovery grant programs provided in section 403 of this act.

(2) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the committee shall file quarterly project progress reports with the office of financial management.

Appropriation:

State Building Construction Account—State	\$4,150,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,150,000

NEW SECTION. Sec. 399. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Improve Hatchery Management (06-4-010)

Appropriation:

General Fund—Federal	\$6,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$24,000,000
TOTAL	\$30,000,000

NEW SECTION. Sec. 400. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Land and Water Conservation Fund (06-4-007)

Appropriation:

General Fund—Federal	\$4,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$18,000,000
TOTAL	\$22,500,000

NEW SECTION. Sec. 401. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Nonhighway and Off-Road Vehicle Program (NOVA) (06-4-004)

Appropriation:

Nonhighway and Off-Road Vehicle Activities	
Program Account—State	\$7,579,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$39,946,858

TOTAL \$47,525,858

NEW SECTION. Sec. 402. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

National Recreation Trails Program (NRTP) (06-4-008)

Appropriation:

General Fund—Federal \$2,350,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$9,400,000
TOTAL \$11,750,000

NEW SECTION. Sec. 403. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Salmon Recovery Funding Board Programs (SRFB) (06-4-001)

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for grants for salmon recovery efforts. These grants may include a grant to any regional recovery board and/or may include grants for additional restoration projects, monitoring activities, or other salmon recovery actions.

Appropriation:

General Fund—Federal \$44,000,000
State Building Construction Account—State \$18,000,000
Subtotal Appropriation \$62,000,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$304,000,000
TOTAL \$366,000,000

NEW SECTION. Sec. 404. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Washington Wildlife and Recreation Program (WWRP) (06-4-002)

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

(1) The appropriation is provided for the approved list of projects in LEAP capital document No. 2005-14 as developed on April 9, 2005.

(2) Funds appropriated for distribution according to RCW 79A.15.050 shall fulfill the uses and restrictions of each category whether the funds are distributed according to the statutory allotment, the unallocated distribution, or a reassignment of reappropriations. If the cumulative total for acquisition projects is less than the statutory requirement, the difference may be allocated to the remaining development projects.

(3) Funds appropriated for distribution according to the provisions of RCW 79A.15.040(c) shall be allocated forty percent to local government projects and sixty percent to state agency projects. If the cumulative total of local government projects is less than forty percent of the total distribution to this category, the difference may be allocated to state agency projects.

Appropriation:

Outdoor Recreation Account—State \$25,000,000

Habitat Conservation Account—State	\$25,000,000
Subtotal Appropriation	\$50,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$200,000,000
TOTAL	\$250,000,000

NEW SECTION. Sec. 405. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Consolidate Salmon and Watershed Data - Pilot (06-2-950)

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

The appropriation is provided solely for the conservation commission to test the effectiveness of using a web-based, single repository with mapping capabilities to track, manage, and report at local, regional, and statewide bases all habitat projects developed by the conservation districts and to test the effectiveness of a single repository for habitat data collected in a selected watershed through use of hand-held data collection devices by the departments of ecology, natural resources, and fish and wildlife.

The commission shall be assisted by the department of information services and the governor's salmon recovery office in contracting with a qualified private vendor through an open bid process to provide the pilot program. In conjunction, the commission will work with the departments of ecology, fish and wildlife, and natural resources to select a watershed in western Washington, in which to demonstrate the effectiveness of the data repository system.

The commission will collaborate with the natural resources agencies, the department of information services, and the governor's salmon recovery office and submit a joint report with recommendations to the legislature and the office of financial management by December 1, 2006.

Appropriation:

Water Quality Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 406. FOR THE STATE CONSERVATION COMMISSION

Conservation Reserve Enhancement Program (04-4-004)

The reappropriation in this section is subject to the following conditions and limitations: The total cumulative dollar value of state conservation reserve enhancement program grant obligations incurred by the conservation commission and conservation districts shall not exceed \$20,000,000, as provided in the conservation reserve enhancement program agreement between the United States department of agriculture, commodity credit corporation, and the state of Washington executed on October 19, 1998, and subsequent amendments.

Reappropriation:

State Building Construction Account—State	\$4,000,000
---	-------------

Prior Biennia (Expenditures)	\$2,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,000,000

NEW SECTION. Sec. 407. FOR THE STATE CONSERVATION COMMISSION

Conservation Reserve Enhancement Program (06-4-001)

The appropriation in this section is subject to the following conditions and limitations: The total cumulative dollar value of state conservation reserve enhancement program grant obligations incurred by the conservation commission and conservation districts shall not exceed \$20,000,000, as provided in the conservation reserve enhancement program agreement between the United States department of agriculture, commodity credit corporation, and the state of Washington executed on October 19, 1998, and subsequent amendments.

Appropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$6,000,000
TOTAL	\$8,000,000

NEW SECTION. Sec. 408. FOR THE STATE CONSERVATION COMMISSION

Conservation Reserve Enhancement Program - Loans (06-4-004)

The appropriation in this section is subject to the following conditions and limitations: The conservation assistance revolving account appropriation is provided solely for loans under the conservation reserve enhancement program.

Appropriation:

Conservation Assistance Revolving Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$4,000,000
TOTAL	\$5,000,000

NEW SECTION. Sec. 409. FOR THE STATE CONSERVATION COMMISSION

Puget Sound District Grants (04-4-005)

Reappropriation:

Water Quality Account—State	\$75,000
Prior Biennia (Expenditures)	\$765,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$840,000

NEW SECTION. Sec. 410. FOR THE STATE CONSERVATION COMMISSION

Puget Sound District Grants (06-4-003)

Appropriation:

Water Quality Account—State	\$840,000
---------------------------------------	-----------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$3,360,000
TOTAL	\$4,200,000

NEW SECTION. Sec. 411. FOR THE STATE CONSERVATION COMMISSION

Water Quality Grants Program (04-4-002)

Reappropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$3,250,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,500,000

NEW SECTION. Sec. 412. FOR THE STATE CONSERVATION COMMISSION

Water Quality Grants Program (06-4-007)

Appropriation:

State Building Construction Account—State	\$500,000
Water Quality Account—State	\$3,000,000
Subtotal Appropriation	\$3,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000
TOTAL	\$19,500,000

NEW SECTION. Sec. 413. FOR THE STATE CONSERVATION COMMISSION

Livestock Water Quality - Landowner Cost Share (06-4-006)

Appropriation:

Water Quality Account—State	\$2,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$12,000,000
TOTAL	\$14,500,000

NEW SECTION. Sec. 414. FOR THE STATE CONSERVATION COMMISSION

Skokomish Anaerobic Digester (06-4-009)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for a grant to the Mason conservation district for construction of an anaerobic digester in the Skokomish river watershed. Up to \$50,000 of this amount may be spent on completing design concepts and feasibility analysis. The remaining funds shall be allotted only after the following has occurred: (1) Mason conservation district secures nonstate matching funds or in-kind contributions of at least twenty-five percent of the total project cost; (2) a feasibility study is completed and submitted to the Puget Sound action team and the state conservation commission; and (3) the Puget Sound action team and the state conservation commission approve the project proposal.

Appropriation:

State Building Construction Account—State	\$560,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$560,000

NEW SECTION. Sec. 415. FOR THE STATE CONSERVATION COMMISSION

Bi-State Habitat Conservation Plan (06-1-951)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the Walla Walla bi-state habitat conservation planning effort to address habitat enhancement and endangered species protection across the Walla Walla watershed in concert with leaders and representatives of local and tribal governments, the watershed planning unit, conservation districts, environmentalists, and citizen landowners.

Appropriation:

State Building Construction Account—State	\$150,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$150,000

NEW SECTION. Sec. 416. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Culvert Replacement (03-S-001)

Reappropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$1,800,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 417. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Deschutes Hatchery (04-2-011)

Reappropriation:

State Building Construction Account—State	\$30,000
Prior Biennia (Expenditures)	\$670,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$700,000

NEW SECTION. Sec. 418. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Facility, Infrastructure, Lands, and Access Condition Improvement (04-1-003)

Reappropriation:

State Building Construction Account—State	\$2,550,000
Wildlife Account—State	\$40,000
Subtotal Reappropriation	\$2,590,000

Prior Biennia (Expenditures)	\$1,385,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,975,000

NEW SECTION. Sec. 419. FOR THE DEPARTMENT OF FISH AND

WILDLIFE

Fish and Wildlife Opportunity Improvements (04-2-006)

Reappropriation:

Aquatic Lands Enhancement Account—State	\$152,000
Wildlife Account—State	\$500,000
Subtotal Reappropriation	\$652,000

Prior Biennia (Expenditures)	\$1,450,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,102,000

NEW SECTION. Sec. 420. FOR THE DEPARTMENT OF FISH AND

WILDLIFE

Fish and Wildlife Population and Habitat Protection (04-1-002)

Reappropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$600,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,600,000

NEW SECTION. Sec. 421. FOR THE DEPARTMENT OF FISH AND

WILDLIFE

Hatchery Reform, Retrofits, and Condition Improvement (04-1-001)

Reappropriation:

State Building Construction Account—State	\$4,300,000
Wildlife Account—State	\$180,000
Subtotal Reappropriation	\$4,480,000
Prior Biennia (Expenditures)	\$3,420,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,900,000

NEW SECTION. Sec. 422. FOR THE DEPARTMENT OF FISH AND

WILDLIFE

Internal and External Partnership Improvements (04-1-007)

Reappropriation:

General Fund—Federal	\$10,000,000
Prior Biennia (Expenditures)	\$9,918,418
Future Biennia (Projected Costs)	\$0
TOTAL	\$19,918,418

NEW SECTION. Sec. 423. FOR THE DEPARTMENT OF FISH AND

WILDLIFE

Region 1 Office - Spokane (04-2-009)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are provided solely for the construction of the eastern region headquarters office complex to be located at Mirabeau Point.

Reappropriation:

State Building Construction Account—State	\$50,000
Wildlife Account—State	\$500,000
Subtotal Reappropriation	\$550,000
Prior Biennia (Expenditures)	\$3,850,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,400,000

NEW SECTION, Sec. 424. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Department of Fish and Wildlife Energy Savings (04-1-016)

Reappropriation:

State Building Construction Account—State	\$400,000
Prior Biennia (Expenditures)	\$100,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

***NEW SECTION, Sec. 425. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Facility, Infrastructure, Lands, and Access Condition Improvements (06-1-002)

The appropriations in this section are subject to the following conditions and limitations: None of the funding shall be used for developing a new public boat launch access facility at Lake Tahuyeh in Kitsap county.

Appropriation:

General Fund—Federal	\$650,000
State Building Construction Account—State	\$6,457,000
Subtotal Appropriation	\$7,107,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$26,600,000
TOTAL	\$33,707,000

*Sec. 425 was partially vetoed. See message at end of chapter.

***NEW SECTION, Sec. 426. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Fish and Wildlife Opportunity Improvements (06-2-004)

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

(1) It is the intent of the legislature that expenditures from the wildlife account—state appropriation shall only be made to the extent funds are available in the account and will not result in a reduction to other programs or activities.

(2) It is the intent of the legislature that expenditures from the wildlife account—state appropriation shall only be made to the extent funds are available in the account and will not result in a reduction to other programs or activities.

Appropriation:

Aquatic Lands Enhancement Account—State	\$300,000
State Building Construction Account—State	\$500,000
Warm Water Game Fish Account—State	\$500,000
Wildlife Account—State	\$1,500,000
Subtotal Appropriation	\$2,800,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$12,900,000
TOTAL	\$15,700,000

*Sec. 426 was partially vetoed. See message at end of chapter.

***NEW SECTION. Sec. 427. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Fish and Wildlife Population and Habitat Protection (06-1-003)

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

(1) It is the intent of the legislature that expenditures from the wildlife account—state appropriation shall only be made to the extent funds are available in the account and will not result in a reduction to other programs or activities.

(2) It is the intent of the legislature that expenditures from the wildlife account—state appropriation shall only be made to the extent funds are available in the account and will not result in a reduction to other programs or activities.

Appropriation:

General Fund—Federal	\$2,830,000
General Fund—Private/Local	\$3,500,000
State Building Construction Account—State	\$500,000
Wildlife Account—State	\$600,000
Subtotal Appropriation	\$7,430,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$34,920,000
TOTAL	\$42,350,000

*Sec. 427 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 428. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Hatchery Reform, Retrofits, and Condition Improvement (06-1-001)

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

(1) \$380,000 of the state building construction account—state appropriation is provided solely to implement a pollution abatement pond and fish passage corrections or improvements at the Hoodspout hatchery.

(2) \$700,000 of the state building construction account—state appropriation is provided solely for improvements at the Columbia Springs environmental education center in Vancouver, Washington.

Appropriation:

General Fund—Federal	\$6,000,000
General Fund—Private/Local	\$1,500,000
Recreational Fisheries Enhancement Account—State	\$400,000
State Building Construction Account—State	\$7,350,000
Subtotal Appropriation	\$15,250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$64,600,000
TOTAL	\$79,850,000

NEW SECTION. Sec. 429. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Internal and External Partnership Improvements (06-1-005)

Appropriation:

General Fund—Federal	\$10,000,000
General Fund—Private/Local	\$3,000,000
Game Special Wildlife Account—State	\$100,000
Game Special Wildlife Account—Federal	\$400,000
Game Special Wildlife Account—Private/Local	\$700,000
Subtotal Appropriation	\$14,200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$51,400,000
TOTAL	\$65,600,000

NEW SECTION. Sec. 430. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Sustainability and Department of Fish and Wildlife Energy Savings (06-1-009)

Appropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$2,000,000
TOTAL	\$2,500,000

NEW SECTION. Sec. 431. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Fish Screens (01-H-011)

Reappropriation:

State Building Construction Account—State	\$550,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$550,000

NEW SECTION. Sec. 432. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Pollution Abatement Study (06-2-013)

Appropriation:

State Building Construction Account—State	\$100,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$100,000

NEW SECTION. Sec. 433. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Wind Power Mitigation (06-2-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided to support the development and implementation of a wind power alternative mitigation pilot program, the purpose of which is to maximize the habitat value of mitigation funds and streamline the mitigation process for wind power projects. The program must combine the acquisition of strategically important habitat by the department with annual funding from wind developers for restoration, management, and monitoring of these critical habitat areas. The appropriation is for the department to undertake the acquisition component of the program.

Appropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 434. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Hatchery and Fish Acclimation Studies (06-1-952)

Appropriation:

General Fund—Federal	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 435. FOR THE DEPARTMENT OF NATURAL RESOURCES

Forest Legacy (04-2-015)

Reappropriation:

General Fund—Federal	\$4,650,000
--------------------------------	-------------

Appropriation:

General Fund—Federal	\$8,000,000
Prior Biennia (Expenditures)	\$11,900,000
Future Biennia (Projected Costs)	\$32,000,000
TOTAL	\$56,550,000

NEW SECTION. Sec. 436. FOR THE DEPARTMENT OF NATURAL RESOURCES

Community and Technical College Trust Land Acquisition (06-2-014)

Appropriation:

Comm/Tech College Forest Reserve Account—State	\$100,000
Prior Biennia (Expenditures)	\$558,000
Future Biennia (Projected Costs)	\$2,000,000
TOTAL	\$2,658,000

NEW SECTION. Sec. 437. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Dole Bee Be Property (06-1-950)

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

(1) \$950,000 is provided solely for the department to develop an interpretive nature trail, kiosk, and associated projects at the Bee Be Springs property.

(2) \$550,000 is provided solely to the department for expenses related to cost sharing with the Chelan PUD for the development of an acclimation pond near the Chelan river. Funding is contingent upon successful completion and approval of a feasibility study showing the viability of the project, no later than June 30, 2005. If the feasibility study is not completed and approved by June 30, 2005, the funds provided in this subsection shall be provided for the development of the Bee Be Springs property.

Appropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

****NEW SECTION. Sec. 438. FOR THE DEPARTMENT OF NATURAL RESOURCES***

Deep Water Geoduck and Sea Cucumber Population Surveys (06-2-850)

Appropriation:

<i>Resources Management Cost Account—State</i>	<i>\$650,000</i>
<i>Prior Biennia (Expenditures)</i>	<i>\$0</i>
<i>Future Biennia (Projected Costs)</i>	<i>\$0</i>
<i>TOTAL</i>	<i>\$650,000</i>

*Sec. 438 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 439. FOR THE DEPARTMENT OF NATURAL RESOURCES

Molluscan Model and Monitoring (06-2-851)

Appropriation:

Aquatic Lands Enhancement Account—State	\$200,500
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0

TOTAL \$200,500

NEW SECTION. Sec. 440. FOR THE DEPARTMENT OF NATURAL RESOURCES

Marine Station Public Access (02-2-019)

Reappropriation:

Aquatic Lands Enhancement Account—State. \$11,138
Prior Biennia (Expenditures)..... \$53,862
Future Biennia (Projected Costs)..... \$0
TOTAL \$65,000

NEW SECTION. Sec. 441. FOR THE DEPARTMENT OF NATURAL RESOURCES

Marine Station Public Access (04-2-019)

Reappropriation:

Aquatic Lands Enhancement Account—State. \$93,840
Prior Biennia (Expenditures)..... \$6,160
Future Biennia (Projected Costs)..... \$0
TOTAL \$100,000

NEW SECTION. Sec. 442. FOR THE DEPARTMENT OF NATURAL RESOURCES

Federal HCP Land Acquisition Grants (05-2-021)

Reappropriation:

General Fund—Federal \$19,820,630
Prior Biennia (Expenditures)..... \$0
Future Biennia (Projected Costs)..... \$0
TOTAL \$19,820,630

NEW SECTION. Sec. 443. FOR THE DEPARTMENT OF NATURAL RESOURCES

Land Bank (06-2-015)

Appropriation:

Resources Management Cost Account—State \$5,000,000
Prior Biennia (Expenditures)..... \$10,462,000
Future Biennia (Projected Costs)..... \$40,000,000
TOTAL \$55,462,000

NEW SECTION. Sec. 444. FOR THE DEPARTMENT OF NATURAL RESOURCES

Minor Works - Preservation (06-1-001)

Appropriation:

Forest Development Account—State \$224,000
Resources Management Cost Account—State \$384,000
State Building Construction Account—State \$144,000
Agricultural College Trust Management Account—State..... \$48,000
Subtotal Appropriation..... \$800,000

Prior Biennia (Expenditures)	\$1,776,500
Future Biennia (Projected Costs)	\$3,400,000
TOTAL	\$5,976,500

NEW SECTION. Sec. 445. FOR THE DEPARTMENT OF NATURAL RESOURCES

Minor Works - Programmatic (06-2-002)

Appropriation:

Forest Development Account—State	\$112,000
Resources Management Cost Account—State	\$192,000
State Building Construction Account—State	\$447,000
Agricultural College Trust Management Account—State	\$24,000
Subtotal Appropriation	\$775,000

Prior Biennia (Expenditures)	\$1,010,200
Future Biennia (Projected Costs)	\$1,968,000
TOTAL	\$3,753,200

NEW SECTION. Sec. 446. FOR THE DEPARTMENT OF NATURAL RESOURCES

Natural Areas Facilities Preservation (06-1-010)

Appropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$658,000
Future Biennia (Projected Costs)	\$8,298,000
TOTAL	\$9,456,000

NEW SECTION. Sec. 447. FOR THE DEPARTMENT OF NATURAL RESOURCES

Natural Resources Real Property Replacement (06-2-013)

Appropriation:

Natural Resources Real Property Replacement Account—State	\$30,000,000
Prior Biennia (Expenditures)	\$28,961,300
Future Biennia (Projected Costs)	\$120,000,000
TOTAL	\$178,961,300

NEW SECTION. Sec. 448. FOR THE DEPARTMENT OF NATURAL RESOURCES

Recreation Facilities Preservation (06-1-011)

Appropriation:

State Building Construction Account—State	\$865,000
Prior Biennia (Expenditures)	\$698,000
Future Biennia (Projected Costs)	\$8,840,000
TOTAL	\$10,403,000

NEW SECTION. Sec. 449. FOR THE DEPARTMENT OF NATURAL RESOURCES

Right of Way Acquisition (06-2-006)

Appropriation:

Forest Development Account—State	\$250,000
Resources Management Cost Account—State	\$750,000
Subtotal Appropriation	\$1,000,000
 Prior Biennia (Expenditures)	 \$945,409
Future Biennia (Projected Costs)	\$5,750,000
TOTAL	\$7,695,409

NEW SECTION. Sec. 450. FOR THE DEPARTMENT OF NATURAL RESOURCES

Riparian Open Space Program (06-2-018)

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

(1) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the department shall file quarterly project progress reports with the office of financial management.

(2) The department may not expend more than \$100,000 of the appropriation for administrative or staff costs.

Appropriation:

State Building Construction Account—State	\$1,500,000
 Prior Biennia (Expenditures)	 \$1,998,600
Future Biennia (Projected Costs)	\$6,000,000
TOTAL	\$9,498,600

NEW SECTION. Sec. 451. FOR THE DEPARTMENT OF NATURAL RESOURCES

Small Timber Landowner (FREP) (06-2-019)

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

(1) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the department shall file quarterly project progress reports with the office of financial management.

(2) The department may not expend more than \$200,000 of the appropriation for administrative or staff costs.

Appropriation:

State Building Construction Account—State	\$8,000,000
 Prior Biennia (Expenditures)	 \$7,750,000
Future Biennia (Projected Costs)	\$40,000,000
TOTAL	\$55,750,000

NEW SECTION. Sec. 452. FOR THE DEPARTMENT OF NATURAL RESOURCES

State Lands Maintenance (06-1-004)

Appropriation:

Forest Development Account—State	\$225,000
Resources Management Cost Account—State	\$375,000
Subtotal Appropriation	\$600,000

Prior Biennia (Expenditures)	\$2,360,814
Future Biennia (Projected Costs)	\$6,900,000
TOTAL	\$9,860,814

NEW SECTION, Sec. 453. FOR THE DEPARTMENT OF NATURAL RESOURCES

Statewide Aquatic Restoration Projects (06-2-008)

Appropriation:

Aquatic Lands Enhancement Account—State	\$300,000
State Building Construction Account—State	\$150,000
Subtotal Appropriation	\$450,000

Prior Biennia (Expenditures)	\$200,000
Future Biennia (Projected Costs)	\$1,200,000
TOTAL	\$1,850,000

NEW SECTION, Sec. 454. FOR THE DEPARTMENT OF NATURAL RESOURCES

Trust Land Transfer (06-2-012)

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

(1) The total appropriation is provided to the department solely to transfer from trust status or enter into thirty-year timber harvest restrictive easements/ leases for certain trust lands of statewide significance deemed appropriate for state park, fish and wildlife habitat, natural area preserve, natural resources conservation area, open space, or recreation purposes.

(2) Property transferred under this section shall be appraised and transferred at fair market value. The value of the timber transferred shall be deposited by the department to the common school construction account in the same manner as timber revenues from other common school trust lands. No deduction shall be made for the resource management cost account under RCW 79.64.040. The value of the land transferred shall be deposited in the natural resources real property replacement account. These funds shall be expended by the department for the exclusive purpose of acquiring nonagricultural real property of equal value to be managed as common school trust land.

(3) Except as provided under subsection (11) of this section, property subject to easement/lease agreements under this section shall be appraised at fair market value both with and without the imposition of the easement/lease. The entire difference in appraised value shall be deposited by the department to the common school construction fund in the same manner as lease revenues from other common school trust lands. No deduction shall be made for the resource management cost account under RCW 79.64.040.

(4) All reasonable costs incurred by the department to implement this section are authorized to be paid out of the appropriations. Authorized costs include the actual cost of appraisals, staff time, environmental reviews, surveys, and other similar costs.

(5) Intergrant exchanges between common school and other trust lands of equal value may occur if the exchange is in the interest of each trust, as determined by the board of natural resources.

(6) Prior to or concurrent with conveyance of these properties, the department, with full cooperation of the receiving agencies, shall execute and record a real property instrument that dedicates the transferred properties to the purposes identified in subsection (1) of this section for a minimum period of thirty years. The department, in consultation with the receiving state agencies, shall develop policy to address requests to replace transferred properties subject to the recorded property instrument that are no longer deemed appropriate for the purposes identified in subsection (1) of this section.

(7) The department and receiving agencies shall work in good faith to carry out the intent of this section. However, the department or receiving agencies may remove a property from the transfer list based on new, substantive information, if it is determined that transfer of the property is not in the statewide interest of either the common school trust or the receiving agency.

(8) Except as provided in subsection (11) of this section, the department shall execute trust land transfers and easements/leases such that, after the deduction of reasonable costs as provided in subsection (4) of this section, eighty percent of the appropriation in this section is deposited in the common school construction fund. To achieve the 80:20 ratio, the department may offset transfers of property with low timber-to-land ratios with easements/leases on other properties.

(9) On June 30, 2007, the state treasurer shall transfer all remaining uncommitted funds from this appropriation to the common school construction fund and the appropriations in this section shall be reduced by an equivalent amount.

(10) The appropriations in this section are provided for a list of projects in LEAP capital document No. 2005-17, as developed on April 16, 2005.

(11) The department may, after the deduction of reasonable costs as provided in subsection (4) of this section, execute leases for an initial term not to exceed fifty years, for Smugglers Cove, Cultus Bay, and Strawberry Point. Leases executed under this subsection may be renewed for an additional thirty-year period, under terms and conditions established by the department, including revaluation. Trust land transfer leases under this subsection shall not be subject to the 80:20 ratio of timber value to land value required in subsection (8) of this section. Revenues derived from leases under this subsection shall be deposited in the appropriate account as provided by law.

Appropriation:

Natural Resources Real Property Replacement	
Account—State	\$11,870,000
State Building Construction Account—State	\$61,610,000
Subtotal Appropriation	\$73,480,000
Prior Biennia (Expenditures)	\$115,228,800
Future Biennia (Projected Costs)	\$201,400,000
TOTAL	\$390,108,800

NEW SECTION. Sec. 455. FOR THE DEPARTMENT OF NATURAL RESOURCES

Wetland Grants (06-2-017)

Appropriation:

General Fund—Federal	\$1,500,000
Prior Biennia (Expenditures)	\$500,000
Future Biennia (Projected Costs)	\$6,000,000
TOTAL	\$8,000,000

NEW SECTION. Sec. 456. FOR THE DEPARTMENT OF NATURAL RESOURCES

Wetland Grants (04-2-004)

Reappropriation:

General Fund—Federal	\$108,000
Prior Biennia (Expenditures)	\$392,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 457. FOR THE DEPARTMENT OF NATURAL RESOURCES

Road Maintenance and Abandonment Plan Compliance: Natural Areas and Recreation (06-2-003)

Appropriation:

State Building Construction Account—State	\$700,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,400,000
TOTAL	\$2,100,000

NEW SECTION. Sec. 458. FOR THE DEPARTMENT OF NATURAL RESOURCES

Statewide Estuarine Restoration Projects (04-2-021)

Reappropriation:

Aquatic Lands Enhancement Account—State	\$80,000
Prior Biennia (Expenditures)	\$120,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$200,000

NEW SECTION. Sec. 459. FOR THE DEPARTMENT OF NATURAL RESOURCES

Riparian Open Space Program (04-2-023)

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

(1) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the department shall file quarterly project progress reports with the office of financial management.

(2) The department may not expend more than \$100,000 of the reappropriation for administrative or staff costs.

Reappropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$2,000,000

Future Biennia (Projected Costs).....	\$0
TOTAL	\$2,500,000

NEW SECTION. Sec. 460. FOR THE DEPARTMENT OF AGRICULTURE

Fair Improvements (06-4-850)

Appropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$200,000

NEW SECTION. Sec. 461. FOR THE DEPARTMENT OF AGRICULTURE

Hop Initiative (06-1-951)

Appropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$500,000

**PART 4
TRANSPORTATION**

NEW SECTION. Sec. 501. FOR THE WASHINGTON STATE PATROL

Minor Work Projects (06-1-001)

Appropriation:

State Building Construction Account—State	\$495,000
Prior Biennia (Expenditures).....	\$450,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$945,000

NEW SECTION. Sec. 502. FOR THE DEPARTMENT OF TRANSPORTATION

Columbia River Dredging (03-H-001)

The reappropriation in this section is provided solely to fund the second phase of a multiphase cooperative project with the state of Oregon to dredge the Columbia river. The amount in this section lapses unless the state of Oregon appropriates a dollar-for-dollar match to fund its share of the project.

Reappropriation:

State Building Construction Account—State	\$17,700,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$17,700,000

**PART 5
EDUCATION**

**NEW SECTION. Sec. 601. FOR THE STATE BOARD OF
EDUCATION**

Common School Construction Account Deposits

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

(1) \$15,000,000 in fiscal year 2006 and \$15,000,000 in fiscal year 2007 of the education savings account appropriation shall be deposited in the common school construction account.

(2) \$99,737,000 of the education construction account appropriation shall be deposited in the common school construction account.

Appropriation:

Education Savings Account—State	\$30,000,000
Education Construction Account—State	\$99,737,000
Subtotal Appropriation	\$129,737,000
 Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$129,737,000

**NEW SECTION. Sec. 602. FOR THE STATE BOARD OF
EDUCATION**

Construction Assistance Grants (02-4-001)

Reappropriation:

Common School Construction Account—State	\$12,000,000
 Prior Biennia (Expenditures)	\$136,811,979
Future Biennia (Projected Costs)	\$0
TOTAL	\$148,811,979

**NEW SECTION. Sec. 603. FOR THE STATE BOARD OF
EDUCATION**

Port Angeles School District North Olympic Skills Center (04-4-852)

Reappropriation:

State Building Construction Account—State	\$1,500,000
 Prior Biennia (Expenditures)	\$3,500,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

**NEW SECTION. Sec. 604. FOR THE STATE BOARD OF
EDUCATION**

School Construction Assistance Program (04-4-001)

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

(1) The reappropriations are subject to the conditions and limitations of section 606, chapter 26, Laws of 2003 1st sp. sess. and is pro-rated based on prior expenditures.

(2) \$2,500,000 of this reappropriation is provided solely for design and construction of additional space at the new market vocational skills center.

Reappropriation:

Common School Construction Account—State	\$160,000,000
State Building Construction Account—State	\$107,050,000
Subtotal Reappropriation	\$267,050,000
Prior Biennia (Expenditures)	\$135,218,513
Future Biennia (Projected Costs)	\$0
TOTAL	\$402,268,513

NEW SECTION. Sec. 605. FOR THE STATE BOARD OF EDUCATION

School Construction Assistance Program (06-4-100)

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

(1) For state assistance grants for purposes of calculating square foot eligibility, kindergarten student headcount shall not be reduced by fifty percent.

(2) \$14,439,000 from this appropriation is provided solely for projects at skills centers that are included on the prioritized list of capital items and major capital project list submitted by the state board of education and \$150,000 from this appropriation is provided solely for a comprehensive feasibility study for the development of a skills center in Skagit county. Skills centers shall submit a budget plan to the state board of education and the appropriate fiscal committees of the legislature for proposed expenditures and the proposed expenditures shall conform to state board of education rules and procedures for reimbursement of capital items. The state board of education shall develop a plan to include skills center capital requests within the state construction assistance program.

(3) \$156,155,000 of this appropriation is provided solely to increase the area cost allowance by \$12.14 per square foot for grades K-12 for fiscal year 2006, an additional \$12.27 per square foot for grades K-12 for fiscal year 2007, the student square footage allocation in fiscal year 2007 in accordance with the first step in the state board of education six-year plan, and the amount of state assistance provided for modernization and new in-lieu projects to one hundred percent of the area cost allowance.

(4) The appropriation in this section includes the amounts deposited in the common school construction account under section 601 of this act.

Appropriation:

State Building Construction Account—State	\$130,200,000
Common School Construction Account—State	\$474,853,000
Subtotal Appropriation	\$605,053,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$2,832,159,000
TOTAL	\$3,437,212,000

NEW SECTION. Sec. 606. FOR THE STATE BOARD OF EDUCATION

Environmental Learning Centers (06-2-951)

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

(1) \$1,950,000 from this appropriation is provided solely for capital projects at the Chewelah peak learning center. The Chewelah peak learning center shall submit a budget plan to the state board of education and the appropriate fiscal committees of the legislature for proposed expenditures.

(2) \$400,000 of this appropriation is provided solely for capital projects at Camp Waskowitz learning center. Camp Waskowitz shall submit a budget plan to the state board of education and the appropriate fiscal committees of the legislature for proposed expenditures.

Appropriation:

State Building Construction Account—State	\$2,350,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,350,000

NEW SECTION. Sec. 607. FOR THE STATE BOARD OF EDUCATION

Apple Award Construction Achievement Grants (06-4-850)

The appropriation in this section is subject to the following conditions and limitations: Grants of \$25,000 are provided to public elementary schools whose students have shown the greatest combined average increase in the percentage of students meeting the fourth grade reading, mathematics, and writing standards on the Washington assessment of student learning from 2005-06 and 2006-07. \$250,000 shall be available for awards in 2005-06 and \$250,000 in 2006-07. The program shall be administered by the state board of education which shall determine categories for selection that provides geographic and school district size representation.

The grants shall be used for capital construction purposes as determined by the students in the schools and approved by the district's school directors. The funds may be used exclusively for capital construction projects on school property or on other public property in the community, city, or county in which the school is located.

Appropriation:

Education Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 608. FOR THE STATE BOARD OF EDUCATION

Small Repair Grant Program (06-2-952)

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

(1) \$2,370,000 of the appropriation in this section is provided solely for nonrecurring costs associated with urgent health and safety school facility repairs and renovations and minimal administrative costs associated with

administering the program. The state board of education and the office of the superintendent of public instruction, after consulting with maintenance and operations administrators of school districts, shall develop criteria for providing funding for specific projects that stay within the appropriation level provided in this section. The criteria shall include, but is not limited to, the following: (a) Limiting recipient district applications to one hundred thousand dollars per three-year period; (b) limiting districts eligible to receive the grant only once in any three-year period; and (c) any district receiving funding provided in this section demonstrating a consistent commitment to addressing school facilities needs. A portion of this appropriation may be used to develop and administer the program. It is the intent of the legislature that the state board of education and the office of the superintendent of public instruction keep the administrative costs of the program to a minimum by using criteria from the prior federal regrant program and other efficiency measures to avoid duplication.

(2) \$269,000 of the appropriation is provided solely for roof repairs in the White Pass school district.

(3) \$100,000 of the appropriation is provided solely for drainage issues related to the freshman campus and Ferguson creek in the Snohomish school district.

(4) \$261,000 of the appropriation is provided solely for fire/alarm control panels and devices in the Vashon school district.

Appropriation:

Education Construction Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 609. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

High Performance Buildings (06-4-852)

The appropriation in this section is subject to the following conditions and limitations: Additional funding will be provided to school districts constructing public schools to recognized standards for high performance public buildings for a transition period of three years. The districts building high performance public schools will be granted funding per school project for capital-related costs associated with the design and construction of public K-12 schools that meet or exceed comprehensive design, construction, and operating standards for high performance and sustainable school buildings. No more than \$250,000 will be allotted for each elementary school built to high performance standards, no more than \$350,000 will be allotted for each middle school built to high performance standards, and no more than \$500,000 will be allotted to each high school built to high performance standards. These levels may be modified, in a limited manner, if specific project conditions warrant and as determined by the office of the superintendent of public instruction.

Appropriation:

State Building Construction Account—State	\$6,500,000
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs)	\$13,000,000
TOTAL	\$19,500,000

NEW SECTION. Sec. 610. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

State School Construction Assistance Program Administration (06-2-001)

Appropriation:

Common School Construction Account—State	\$2,279,004
Prior Biennia (Expenditures)	\$3,969,379
Future Biennia (Projected Costs)	\$10,554,882
TOTAL	\$16,803,265

NEW SECTION. Sec. 611. FOR THE STATE SCHOOL FOR THE BLIND

Kennedy, Dry, and Irwin Building Preservation (04-1-002)

The reappropriation in this section is subject to the following conditions and limitations: All funds reappropriated to be used for funding of new physical education center.

Reappropriation:

State Building Construction Account—State	\$900,000
Prior Biennia (Expenditures)	\$1,379,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,279,000

NEW SECTION. Sec. 612. FOR THE STATE SCHOOL FOR THE BLIND

Campus Preservation (06-1-003)

Appropriation:

State Building Construction Account—State	\$700,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$2,800,000
TOTAL	\$3,500,000

NEW SECTION. Sec. 613. FOR THE STATE SCHOOL FOR THE DEAF

Omnibus Minor Works - Preservation (06-1-002)

Appropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$775,000
TOTAL	\$975,000

NEW SECTION. Sec. 614. FOR THE STATE SCHOOL FOR THE DEAF

Omnibus Minor Works - Safety (06-1-001)

Appropriation:

State Building Construction Account—State	\$800,816
---	-----------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$800,816

***NEW SECTION. Sec. 615. FOR THE HIGHER EDUCATION COORDINATING BOARD**

Snohomish, Skagit, and Island County Higher Education Needs Assessment (06-2-850)

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

(1) The higher education coordinating board is directed to assess the higher education needs in Snohomish, Skagit, and Island counties and recommend to the legislature solutions to the higher education needs. Solutions that the board should consider include, but should not be limited to, establishment of new institutions, expansion of existing institutions, and colocation of institutions. In conducting its assessment, the board shall take into account but not be limited to the following: Population growth, higher education participation rates, economic demand and work force needs, and drive and commute times to existing higher education institutions.

(2) The board may contract for an assessment of sites to meet higher education needs in the counties.

(3) In conducting the assessment and siting study, the higher education coordinating board shall consult with the state board for community and technical colleges, the workforce training and education coordinating board, the North Snohomish, Island, and Skagit higher education consortium, and the existing research and comprehensive institutions.

(4) The advisory committee on higher education created pursuant to chapter . . . (Engrossed Second Substitute Senate Bill No. 5441 (studying early learning, K-12, and higher education)), Laws of 2005 shall serve as a steering committee and direct the board in the conduct of the assessment and siting study.

(5) The board shall assemble a local advisory committee to assist in the conduct of the assessment and siting study. The committee shall include: (a) The Snohomish county executive; (b) three members of the house of representatives, including two from the majority party and one from the minority party, appointed by the speaker of the house of representatives; (c) three members of the senate, including two from the majority party and one from the minority party, appointed by the president of the senate; and (d) six education or business leaders, two each from Snohomish, Island, and Skagit counties.

(6) The recommendations to the legislature shall include, but are not limited to: (a) The type of institution or institutions to be established; (b) a business and operations plan for the institution if a new institution is recommended; (c) potential sites for establishment of an institution; (d) identification of site acquisition costs; and (e) identification of costs and a process for completing a master plan for higher education expansion.

(7) The board shall provide an interim report to the legislature and the governor by January 15, 2006, and a final report by December 1, 2006.

Appropriation:

Education Construction Account—State	\$500,000
--	-----------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

*Sec. 615 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 616. FOR THE UNIVERSITY OF WASHINGTON

UW Tacoma Campus Phase 2A (00-2-017)

The reappropriation in this section is subject to the following conditions and limitations: No money from the reappropriation in this section may be expended that would be inconsistent with the recommendations of the higher education coordinating board and the project design, scope, and schedule approved by the office of financial management.

Reappropriation:

State Building Construction Account—State	\$1,505,280
Prior Biennia (Expenditures)	\$36,130,653
Future Biennia (Projected Costs)	\$0
TOTAL	\$37,635,933

NEW SECTION. Sec. 617. FOR THE UNIVERSITY OF WASHINGTON

UW Tacoma Land Acquisition/Soils Remediation (01-2-029)

Reappropriation:

Education Construction Account—State	\$620,455
Prior Biennia (Expenditures)	\$5,329,545
Future Biennia (Projected Costs)	\$10,500,000
TOTAL	\$16,450,000

NEW SECTION. Sec. 618. FOR THE UNIVERSITY OF WASHINGTON

UW Bothell/Cascadia Community College - SR 522 Off Ramp (02-2-014)

Reappropriation:

Gardner-Evans Higher Education Construction Account—State	\$1,742,500
Prior Biennia (Expenditures)	\$7,500
Future Biennia (Projected Costs)	\$11,800,505
TOTAL	\$13,550,505

NEW SECTION. Sec. 619. FOR THE UNIVERSITY OF WASHINGTON

UW Tacoma Campus Phase 2B (02-2-027)

Reappropriation:

State Building Construction Account—State	\$2,356,356
Prior Biennia (Expenditures)	\$41,992,644
Future Biennia (Projected Costs)	\$0
TOTAL	\$44,349,000

NEW SECTION. Sec. 620. FOR THE UNIVERSITY OF WASHINGTON

Facility Preservation Backlog Reduction (04-1-951)

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

(1) Pursuant to definitions and provisions in section 925, chapter 26, Laws of 2003 1st sp. sess., the reappropriation is provided solely to accomplish preservation work that improves existing state facilities in the worst relative condition for housed programs and current building occupants.

(2) With this reappropriation, the intention is to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preservation backlog reduction project funds shall be prioritized at local discretion to achieve the above stated goal, with particular attention given to buildings currently rated in adequate to marginal condition.

(3) This section is subject to the same allotment procedures as a minor works category.

(4) Section 906 of this act does not apply to this appropriation.

Reappropriation:

State Building Construction Account—State	\$24,227,404
Prior Biennia (Expenditures)	\$4,372,596
Future Biennia (Projected Costs)	\$0
TOTAL	\$28,600,000

NEW SECTION. Sec. 621. FOR THE UNIVERSITY OF WASHINGTON

Minor Works - Program (04-2-004)

Reappropriation:

State Building Construction Account—State	\$3,131,540
University of Washington Building Account—State	\$2,117,650
Subtotal Reappropriation	\$5,249,190
Prior Biennia (Expenditures)	\$5,250,810
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,500,000

NEW SECTION. Sec. 622. FOR THE UNIVERSITY OF WASHINGTON

UW Campus Communications Infrastructure (04-1-011)

Reappropriation:

State Building Construction Account—State	\$2,500,000
Gardner-Evans Higher Education Construction Account—State	\$2,000,000
Subtotal Reappropriation	\$4,500,000
Prior Biennia (Expenditures)	\$2,500,000
Future Biennia (Projected Costs)	\$16,000,000
TOTAL	\$23,000,000

NEW SECTION. Sec. 623. FOR THE UNIVERSITY OF WASHINGTON

UW Emergency Power Expansion - Phase 1 (02-1-009)

Reappropriation:

University of Washington Building Account—State	\$3,262,357
Prior Biennia (Expenditures)	\$7,737,643
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,000,000

NEW SECTION. Sec. 624. FOR THE UNIVERSITY OF WASHINGTON

UW Emergency Power Expansion - Phase 2 (04-1-024)

Reappropriation:

State Building Construction Account—State	\$2,803,379
University of Washington Building Account—State	\$3,148,000
Subtotal Reappropriation	\$5,951,379
Prior Biennia (Expenditures)	\$696,621
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,648,000

NEW SECTION. Sec. 625. FOR THE UNIVERSITY OF WASHINGTON

UW Johnson Hall Renovation (04-1-005)

Reappropriation:

State Building Construction Account—State	\$4,470,762
University of Washington Building Account—State	\$15,552,000
Gardner-Evans Higher Education Construction Account—State	\$20,187,630
Subtotal Reappropriation	\$40,210,392
Prior Biennia (Expenditures)	\$12,844,608
Future Biennia (Projected Costs)	\$0
TOTAL	\$53,055,000

NEW SECTION. Sec. 626. FOR THE UNIVERSITY OF WASHINGTON

Classroom Improvements (05-1-850)

Reappropriation:

Gardner-Evans Higher Education Construction Account—State	\$3,856,812
Prior Biennia (Expenditures)	\$143,188
Future Biennia (Projected Costs)	\$12,000,000
TOTAL	\$16,000,000

NEW SECTION. Sec. 627. FOR THE UNIVERSITY OF WASHINGTON

Guthrie Hall Psychology Facilities Renovation (05-2-851)

The reappropriation in this section is subject to the following conditions and limitations: Allotment for this reappropriation is contingent on the commitment of at least three million dollars in matching federal funds for this facility.

Reappropriation:

Gardner-Evans Higher Education Construction

Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 628. FOR THE UNIVERSITY OF WASHINGTON

UW Tacoma - Assembly Hall (06-2-007)

Appropriation:

State Building Construction Account—State	\$7,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,500,000

NEW SECTION. Sec. 629. FOR THE UNIVERSITY OF WASHINGTON

Infectious Disease Laboratory Facilities (05-2-850)

The reappropriation in this section is subject to the following conditions and limitations: Allotment for this reappropriation is contingent on the commitment of at least four million dollars in matching federal funds for this facility.

Reappropriation:

Gardner-Evans Higher Education Construction

Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 630. FOR THE UNIVERSITY OF WASHINGTON

Architecture Hall Renovation (06-1-008)

The appropriation in this section is subject to the following conditions and limitations: No money from the appropriation in this section may be expended on surge space.

Appropriation:

State Building Construction Account—State	\$21,850,000
Prior Biennia (Expenditures)	\$1,474,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$23,324,000

NEW SECTION. Sec. 631. FOR THE UNIVERSITY OF WASHINGTON

Clark Hall Renovation (06-1-007)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for predesign and design of renovation of Clark Hall. The office of financial management shall not allot funding for the design until after sine die adjournment of the 2006 regular legislative session and only if the predesign has been submitted to the legislative fiscal committees and to the office of financial management for review and approval as per RCW 43.88.110(6) prior to the start of the 2006 regular legislative session.

Appropriation:

State Building Construction Account—State	\$2,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$17,400,000
TOTAL	\$19,900,000

NEW SECTION. Sec. 632. FOR THE UNIVERSITY OF WASHINGTON

Guggenheim Hall Renovation (06-1-006)

The appropriation in this section is subject to the following conditions and limitations: No money from the appropriation in this section may be expended on surge space.

Appropriation:

State Building Construction Account—State	\$24,500,000
Prior Biennia (Expenditures)	\$1,812,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$26,312,000

NEW SECTION. Sec. 633. FOR THE UNIVERSITY OF WASHINGTON

Health Sciences - H Wing (06-1-001)

Appropriation:

State Building Construction Account—State	\$5,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$10,000,000
TOTAL	\$15,000,000

NEW SECTION. Sec. 634. FOR THE UNIVERSITY OF WASHINGTON

Minor Works - Facility Preservation (06-1-002)

Appropriation:

University of Washington Building Account—State	\$21,200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$88,000,000
TOTAL	\$109,200,000

NEW SECTION. Sec. 635. FOR THE UNIVERSITY OF WASHINGTON

Minor Works - Health, Safety, and Code Requirements (06-1-003)

Appropriation:

University of Washington Building Account—State.	\$11,000,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$44,000,000
TOTAL	\$55,000,000

NEW SECTION. Sec. 636. FOR THE UNIVERSITY OF WASHINGTON

Minor Works - Infrastructure Preservation (06-1-004)

Appropriation:

University of Washington Building Account—State.	\$5,000,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$20,000,000
TOTAL	\$25,000,000

NEW SECTION. Sec. 637. FOR THE UNIVERSITY OF WASHINGTON

Infrastructure Savings (06-1-751)

The appropriations in this section are subject to the following conditions and limitations: Projects that are completed in accordance with section 906 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Gardner-Evans Higher Education Construction Account—State.	\$1
Subtotal Appropriation	\$2
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL	\$2

NEW SECTION. Sec. 638. FOR THE UNIVERSITY OF WASHINGTON

Preventive Facility Maintenance and Building System Repairs (06-1-750)

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

(1) Pursuant to definitions and provisions in section 925, chapter 26, Laws of 2003 1st sp. sess., the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation, the intent is to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 906 of this act does not apply to this appropriation.

(4) There is no intent to reappropriate amounts not expended by June 30, 2007.

Appropriation:

Education Construction Account—State	\$25,825,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$25,825,000

NEW SECTION. Sec. 639. FOR THE UNIVERSITY OF WASHINGTON

Minor Works - Program (06-2-009)

Appropriation:

State Building Construction Account—State	\$900,000
University of Washington Building Account—State	\$3,800,000
Subtotal Appropriation	\$4,700,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$20,000,000
TOTAL	\$24,700,000

NEW SECTION. Sec. 640. FOR THE UNIVERSITY OF WASHINGTON

Savery Hall Renovation (06-1-005)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for predesign and design of renovation of Savery Hall. The office of financial management shall not allot funding for the design until after sine die adjournment of the 2006 regular legislative session and only if the predesign has been submitted to the legislative fiscal committees and to the office of financial management for review and approval as per RCW 43.88.110(6) prior to the start of the 2006 regular legislative session.

Appropriation:

State Building Construction Account—State	\$6,600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$54,300,000
TOTAL	\$60,900,000

NEW SECTION. Sec. 641. FOR THE UNIVERSITY OF WASHINGTON

UW Playhouse Theater (05-1-004)

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$6,000,000
TOTAL	\$7,000,000

NEW SECTION. Sec. 642. FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Education Addition Cleveland Hall (98-2-032)

Reappropriation:

Gardner-Evans Higher Education Construction Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$9,700,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,700,000

*NEW SECTION. Sec. 643. FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Johnson Hall Addition-Plant Bioscience Building (00-2-007)

The reappropriations in this section are subject to the following conditions and limitations: Allotment for this reappropriation is contingent on the commitment of at least \$10,000,000 in federal funds for a related facility or addition.

Reappropriation:

State Building Construction Account—State	\$606,500
Washington State University Building Account—State	\$3,000,000
Subtotal Reappropriation	\$3,606,500
Prior Biennia (Expenditures)	\$35,393,500
Future Biennia (Projected Costs)	\$0
TOTAL	\$39,000,000

*Sec. 643 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 644. FOR WASHINGTON STATE UNIVERSITY

WSU Vancouver - Student Services Center (00-2-905)

Reappropriation:

State Building Construction Account—State	\$400,000
---	-----------

Appropriation:

State Building Construction Account—State	\$10,600,000
Prior Biennia (Expenditures)	\$1,155,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,155,000

NEW SECTION. Sec. 645. FOR WASHINGTON STATE UNIVERSITY

WSU Spokane Riverpoint - Academic Center Building: New Facility (00-2-906)

The reappropriation in this section is subject to the following conditions and limitations: It is intended that the project funded in this section shall constitute the university's highest capital project priority through the 2005-07 biennium.

Reappropriation:

Gardner-Evans Higher Education Construction

Account—State.	\$20,500,000
Prior Biennia (Expenditures).	\$13,350,000
Future Biennia (Projected Costs).	\$0
TOTAL	\$33,850,000

NEW SECTION. Sec. 646. FOR WASHINGTON STATE UNIVERSITY

Facility Preservation Backlog Reduction (04-1-951)

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

(1) Pursuant to definitions and provisions in section 925, chapter 26, Laws of 2003 1st sp. sess., the reappropriation is provided solely to accomplish preservation work that improves existing state facilities in the worst relative condition for housed programs and current building occupants.

(2) With this reappropriation, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preservation backlog reduction project funds shall be prioritized at local discretion to achieve the above stated goal, with particular attention given to buildings currently rated in adequate to marginal condition.

(3) This section is subject to the same allotment procedures as a minor works category.

(4) Section 906 of this act does not apply to this appropriation.

Reappropriation:

State Building Construction Account—State	\$3,000,000
Washington State University Building Account—State	\$1,000,000
Subtotal Reappropriation	\$4,000,000
Prior Biennia (Expenditures).	\$38,000,000
Future Biennia (Projected Costs).	\$0
TOTAL	\$42,000,000

NEW SECTION. Sec. 647. FOR WASHINGTON STATE UNIVERSITY

WSU Spokane - Nursing Building at Riverpoint (04-2-941)

The reappropriation in this section is subject to the following conditions and limitations: Upon completion of construction of this facility at the Riverpoint campus in Spokane, the existing land and facilities housing the intercollegiate nursing center adjacent to Spokane Falls Community College shall be

transferred to the state board for community and technical colleges for the use of community college district 17, community colleges of Spokane.

Reappropriation:

Gardner-Evans Higher Education Construction
Account—State \$1,500,000

Appropriation:

State Building Construction Account—State \$31,600,000
Prior Biennia (Expenditures) \$1,500,000
Future Biennia (Projected Costs) \$0
TOTAL \$34,600,000

NEW SECTION. **Sec. 648. FOR WASHINGTON STATE UNIVERSITY**

WSU Tri-Cities - Bioproducts Facility (04-2-940)

The appropriations in this section are subject to the following conditions and limitations: Allotment for this appropriation is contingent on the commitment of at least an additional \$10,000,000 provided through a lease revenue structure secured by a twenty year lease with Battelle and authorized in section 909(6) of this act.

Appropriation:

State Building Construction Account—State \$13,100,000
Prior Biennia (Expenditures) \$1,650,000
Future Biennia (Projected Costs) \$0
TOTAL \$14,750,000

NEW SECTION. **Sec. 649. FOR WASHINGTON STATE UNIVERSITY**

Center for Precision Agriculture (06-2-850)

Appropriation:

State Building Construction Account—State \$2,800,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$0
TOTAL \$2,800,000

NEW SECTION. **Sec. 650. FOR WASHINGTON STATE UNIVERSITY**

WSU Pullman - Biotechnology/Life Sciences 2 (04-2-085)

Reappropriation:

Washington State University Building Account—State \$1,400,000
Prior Biennia (Expenditures) \$3,250,000
Future Biennia (Projected Costs) \$45,000,000
TOTAL \$49,650,000

NEW SECTION. **Sec. 651. FOR WASHINGTON STATE UNIVERSITY**

WSU Vancouver - Campus Utilities/Infrastructure: Infrastructure (04-2-916)

Reappropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$3,000,000
Prior Biennia (Expenditures)	\$1,300,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,300,000

NEW SECTION. Sec. 652. FOR WASHINGTON STATE

UNIVERSITY

WSU Prosser - Multipurpose Building (04-2-942)

Reappropriation:

State Building Construction Account—State	\$1,100,000
Prior Biennia (Expenditures)	\$400,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 653. FOR WASHINGTON STATE

UNIVERSITY

Agricultural Research Facility Renovation and Repair (05-2-952)

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

- (1) The reappropriation is provided solely for facility construction, renovation, and repair at agricultural research facilities other than in Pullman.
- (2) Washington State University shall retain ownership of 22 acres of the lower pasture area south of the WSU Puyallup research campus and continue its existing use for agricultural research.

Reappropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$350,000
Prior Biennia (Expenditures)	\$150,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 654. FOR WASHINGTON STATE

UNIVERSITY

Campus Infrastructure (06-1-073)

Appropriation:

State Building Construction Account—State	\$7,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$28,000,000
TOTAL	\$35,000,000

NEW SECTION. Sec. 655. FOR WASHINGTON STATE

UNIVERSITY

Infrastructure Savings (06-1-751)

The appropriations in this section are subject to the following conditions and limitations: Projects that are completed in accordance with section 906 of

this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Gardner-Evans Higher Education Construction Account—State	\$1
Subtotal Appropriation	\$2
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2

NEW SECTION. Sec. 656. FOR WASHINGTON STATE UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (06-1-750)

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

(1) Pursuant to definitions and provisions in section 925, chapter 26, Laws of 2003 1st sp. sess., the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation, the intent is to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 906 of this act does not apply to this appropriation.

(4) There is no intent to reappropriate amounts not expended by June 30, 2007.

Appropriation:

Education Construction Account—State	\$10,115,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,115,000

NEW SECTION. Sec. 657. FOR WASHINGTON STATE UNIVERSITY

Equipment Omnibus (06-2-003)

Appropriation:

Washington State University Building Account—State	\$7,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0

TOTAL \$7,000,000

NEW SECTION. Sec. 658. FOR WASHINGTON STATE UNIVERSITY

Minor Capital Improvements (MCI) (06-2-002)

Appropriation:

Washington State University Building Account—

State \$6,000,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$6,000,000

NEW SECTION. Sec. 659. FOR WASHINGTON STATE UNIVERSITY

Minor Works - Facility Preservation (06-1-001)

Appropriation:

State Building Construction Account—State \$25,000,000

Washington State University Building Account—State \$5,500,000

Subtotal Appropriation \$30,500,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$120,000,000

TOTAL \$150,500,000

NEW SECTION. Sec. 660. FOR WASHINGTON STATE UNIVERSITY

Minor Works - Health, Safety, and Code (06-1-002)

Appropriation:

Washington State University Building Account—State \$2,000,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$8,000,000

TOTAL \$10,000,000

NEW SECTION. Sec. 661. FOR WASHINGTON STATE UNIVERSITY

WSU Vancouver: Applied Technology and Classroom Building (06-2-950)

Appropriation:

State Building Construction Account—State \$150,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$31,700,000

TOTAL \$31,850,000

NEW SECTION. Sec. 662. FOR WASHINGTON STATE UNIVERSITY

WSU Vancouver: Undergraduate Classroom Building (06-2-951)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for predesign and design of an undergraduate classroom building. The office of financial management shall not

allot funding for the design until after sine die adjournment of the 2006 regular legislative session and only if the predesign has been submitted to the legislative fiscal committees and to the office of financial management for review and approval as per RCW 43.88.110(6) prior to the start of the 2006 regular legislative session.

Appropriation:

State Building Construction Account—State	\$3,650,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$22,150,000
TOTAL	\$25,800,000

NEW SECTION. Sec. 663. FOR EASTERN WASHINGTON UNIVERSITY

EWU Computing and Engineering Sciences Building (Cheney Hall) (00-2-009)

Reappropriation:

Gardner-Evans Higher Education Construction Account—State	\$3,059,000
Prior Biennia (Expenditures)	\$19,841,482
Future Biennia (Projected Costs)	\$0
TOTAL	\$22,900,482

NEW SECTION. Sec. 664. FOR EASTERN WASHINGTON UNIVERSITY

EWU Senior Hall Renovation (00-1-003)

Reappropriation:

Gardner-Evans Higher Education Construction Account—State	\$9,938,000
Prior Biennia (Expenditures)	\$5,493,012
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,431,012

NEW SECTION. Sec. 665. FOR EASTERN WASHINGTON UNIVERSITY

EWU Campus Network Upgrade (04-2-003)

Reappropriation:

Eastern Washington University Capital Projects Account—State	\$2,215,000
Prior Biennia (Expenditures)	\$4,160,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,375,000

NEW SECTION. Sec. 666. FOR EASTERN WASHINGTON UNIVERSITY

Cheney Hall Renovation (06-1-703)

Appropriation:

State Building Construction Account—State	\$2,002,000
---	-------------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,002,000

NEW SECTION. Sec. 667. FOR EASTERN WASHINGTON UNIVERSITY

Hargreaves Hall Renovation (06-1-701)

Appropriation:

State Building Construction Account—State	\$1,414,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$10,821,204
TOTAL	\$12,235,204

NEW SECTION. Sec. 668. FOR EASTERN WASHINGTON UNIVERSITY

EWU Minor Works - Preservation (02-1-003)

Reappropriation:

Eastern Washington University Capital Projects Account—State	\$566,168
Prior Biennia (Expenditures)	\$4,433,832
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 669. FOR EASTERN WASHINGTON UNIVERSITY

EWU Water System Preservation and Expansion (02-1-008)

Reappropriation:

State Building Construction Account—State	\$196,072
Prior Biennia (Expenditures)	\$2,039,928
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,236,000

NEW SECTION. Sec. 670. FOR EASTERN WASHINGTON UNIVERSITY

EWU Infrastructure Preservation (04-1-006)

Reappropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$2,600,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,850,000

NEW SECTION. Sec. 671. FOR EASTERN WASHINGTON UNIVERSITY

EWU University Visitor Center and Formal Entry (04-2-010)

Reappropriation:

Eastern Washington University Capital Projects Account—State	\$900,000
---	-----------

Prior Biennia (Expenditures)	\$75,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$975,000

NEW SECTION. Sec. 672. FOR EASTERN WASHINGTON UNIVERSITY

Facility Preservation Backlog Reduction (04-1-952)

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

(1) Pursuant to definitions and provisions in section 925, chapter 26, Laws of 2003 1st sp. sess., this reappropriation is provided solely to accomplish preservation work that improves existing state facilities in the worst relative condition for housed programs and current building occupants.

(2) With this reappropriation, the intent is to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preservation backlog reduction project funds shall be prioritized at local discretion to achieve the above stated goal, with particular attention given to buildings currently rated in adequate to marginal condition.

(3) This section is subject to the same allotment procedures as a minor works category.

(4) Section 906 of this act does not apply to this reappropriation.

Reappropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$2,750,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,250,000

NEW SECTION. Sec. 673. FOR EASTERN WASHINGTON UNIVERSITY

Minor Works - Facility Preservation (06-1-710)

Appropriation:

State Building Construction Account—State	\$8,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$32,000,000
TOTAL	\$40,000,000

NEW SECTION. Sec. 674. FOR EASTERN WASHINGTON UNIVERSITY

Minor Works - Health Safety and Code Compliance (06-1-711)

Appropriation:

State Building Construction Account—State	\$5,700,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$12,000,000
TOTAL	\$17,700,000

NEW SECTION. Sec. 675. FOR EASTERN WASHINGTON UNIVERSITY

Minor Works - Infrastructure Preservation (06-1-712)

Appropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$15,500,000
TOTAL	\$19,500,000

NEW SECTION. Sec. 676. FOR EASTERN WASHINGTON UNIVERSITY

Infrastructure Savings (06-1-751)

The appropriations in this section are subject to the following conditions and limitations: Projects that are completed in accordance with section 906 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Gardner-Evans Higher Education Construction Account—State	\$1
Subtotal Appropriation	\$2
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2

NEW SECTION. Sec. 677. FOR EASTERN WASHINGTON UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (06-1-750)

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

(1) Pursuant to definitions and provisions in section 925, chapter 26, Laws of 2003 1st sp. sess., the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation, the intent is to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 906 of this act does not apply to this appropriation.

(4) There is no intent to reappropriate amounts not expended by June 30, 2007.

Appropriation:

Education Construction Account—State	\$2,217,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,217,000

NEW SECTION. Sec. 678. FOR EASTERN WASHINGTON UNIVERSITY

Minor Works Program (06-2-006)

Appropriation:

State Building Construction Account—State	\$6,600,000
Eastern Washington University Capital Projects	
Account—State	\$9,000,000
Subtotal Appropriation	\$15,600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$44,000,000
TOTAL	\$59,600,000

NEW SECTION. Sec. 679. FOR CENTRAL WASHINGTON UNIVERSITY

Music Education Facility (00-2-001)

Reappropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$24,600,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$26,600,000

NEW SECTION. Sec. 680. FOR CENTRAL WASHINGTON UNIVERSITY

CWU/Des Moines Higher Education Center (02-2-101)

Reappropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$10,575,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,575,000

NEW SECTION. Sec. 681. FOR CENTRAL WASHINGTON UNIVERSITY

Combined Utility Upgrade (04-1-952)

Reappropriation:

State Building Construction Account—State	\$600,000
Prior Biennia (Expenditures)	\$4,800,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,400,000

NEW SECTION. Sec. 682. FOR CENTRAL WASHINGTON UNIVERSITY

CWU/Moses Lake Higher Education Center (04-2-031)

Reappropriation:

Central Washington University Capital Projects	
Account—State.	\$280,000
Prior Biennia (Expenditures)	\$320,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$600,000

NEW SECTION. Sec. 683. FOR CENTRAL WASHINGTON UNIVERSITY

Minor Works - Program (04-2-028)

Reappropriation:

Central Washington University Capital Projects	
Account—State.	\$400,000
Prior Biennia (Expenditures)	\$1,600,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 684. FOR CENTRAL WASHINGTON UNIVERSITY

CWU/Wenatchee Higher Education Center (05-2-850)

Reappropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$1,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 685. FOR CENTRAL WASHINGTON UNIVERSITY

Minor Works - Health, Safety, and Code Requirements (05-1-850)

Reappropriation:

Central Washington University Capital Projects	
Account—State.	\$400,000
Prior Biennia (Expenditures)	\$50,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$450,000

NEW SECTION. Sec. 686. FOR CENTRAL WASHINGTON UNIVERSITY

Minor Works - Infrastructure (05-1-851)

Reappropriation:

Central Washington University Capital Projects	
Account—State.	\$600,000

Prior Biennia (Expenditures)	\$113,500
Future Biennia (Projected Costs)	\$0
TOTAL	\$713,500

NEW SECTION. Sec. 687. FOR CENTRAL WASHINGTON UNIVERSITY

Combined Utilities (06-1-007)

Appropriation:

State Building Construction Account—State	\$4,400,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,400,000

NEW SECTION. Sec. 688. FOR CENTRAL WASHINGTON UNIVERSITY

Dean Hall Renovation (06-1-004)

Appropriation:

State Building Construction Account—State	\$2,200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$18,400,000
TOTAL	\$20,600,000

NEW SECTION. Sec. 689. FOR CENTRAL WASHINGTON UNIVERSITY

Minor Works - Facility Preservation (06-1-003)

Appropriation:

Central Washington University Capital Projects Account—State	\$2,058,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$6,080,000
TOTAL	\$8,138,000

NEW SECTION. Sec. 690. FOR CENTRAL WASHINGTON UNIVERSITY

Minor Works - Health, Safety, and Code Requirements (06-1-001)

Appropriation:

Central Washington University Capital Projects Account—State	\$800,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$3,200,000
TOTAL	\$4,000,000

NEW SECTION. Sec. 691. FOR CENTRAL WASHINGTON UNIVERSITY

Minor Works - Infrastructure Preservation (06-1-002)

Appropriation:

Central Washington University Capital Projects

Account—State	\$1,100,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$4,400,000
TOTAL	\$5,500,000

NEW SECTION. Sec. 692. FOR CENTRAL WASHINGTON UNIVERSITY

Infrastructure Savings (06-1-751)

The appropriations in this section are subject to the following conditions and limitations: Projects that are completed in accordance with section 906 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Gardner-Evans Higher Education Construction	
Account—State	\$1
Subtotal Appropriation	\$2
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2

NEW SECTION. Sec. 693. FOR CENTRAL WASHINGTON UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (06-1-750)

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

(1) Pursuant to definitions and provisions in section 925, chapter 26, Laws of 2003 1st sp. sess., the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation, the intent is to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 906 of this act does not apply to this appropriation.

(4) There is no intent to reappropriate amounts not expended by June 30, 2007.

Appropriation:

Education Construction Account—State	\$2,422,000
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs).....	\$0
TOTAL	\$2,422,000

NEW SECTION. Sec. 694. FOR CENTRAL WASHINGTON UNIVERSITY

Minor Works Program (06-2-005)

Appropriation:

Central Washington University Capital Projects	
Account—State.....	\$4,390,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$14,272,000
TOTAL	\$18,662,000

NEW SECTION. Sec. 695. FOR CENTRAL WASHINGTON UNIVERSITY

Nicholson Pavilion Indoor Air/Asbestos (06-1-008)

Appropriation:

State Building Construction Account—State	\$4,100,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$4,100,000

NEW SECTION. Sec. 696. FOR THE EVERGREEN STATE COLLEGE

Seminar Building Phase II - Construction (02-2-004)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation shall not be used for vehicles, laptop computers, small printers, disposable items, or other items with a useful life of less than one year.

Reappropriation:

The Evergreen State College Capital Projects	
Account—State.....	\$700,000
Prior Biennia (Expenditures).....	\$42,550,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$43,250,000

NEW SECTION. Sec. 697. FOR THE EVERGREEN STATE COLLEGE

Daniel J. Evans Building - Modernization (04-2-006)

Reappropriation:

Gardner-Evans Higher Education Construction	
Account—State.....	\$15,500,000

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State.....	\$22,250,000
Prior Biennia (Expenditures).....	\$7,000,000
Future Biennia (Projected Costs).....	\$0

TOTAL \$44,750,000

NEW SECTION. Sec. 698. FOR THE EVERGREEN STATE COLLEGE

Facility Preservation Backlog Reduction (04-1-951)

(1) Pursuant to definitions and provisions in section 925, chapter 26, Laws of 2003 1st sp. sess., this reappropriation is provided solely to accomplish preservation work that improves existing state facilities in the worst relative condition for housed programs and current building occupants.

(2) With this reappropriation, the intent is to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preservation backlog reduction project funds shall be prioritized at local discretion to achieve the above stated goal, with particular attention given to buildings currently rated in adequate to marginal condition.

(3) This section is subject to the same allotment procedures as a minor works category.

(4) Section 906 of this act does not apply to this reappropriation.

Reappropriation:

State Building Construction Account—State	\$300,000
Prior Biennia (Expenditures)	\$3,950,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,250,000

NEW SECTION. Sec. 699. FOR THE EVERGREEN STATE COLLEGE

Infrastructure Preservation (04-1-001)

Reappropriation:

State Building Construction Account—State	\$600,000
Prior Biennia (Expenditures)	\$1,950,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,550,000

NEW SECTION. Sec. 700. FOR THE EVERGREEN STATE COLLEGE

Minor Works - Health, Safety, and Code (04-1-004)

Reappropriation:

The Evergreen State College Capital Projects Account—State	\$700,000
Prior Biennia (Expenditures)	\$1,800,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,500,000

NEW SECTION. Sec. 701. FOR THE EVERGREEN STATE COLLEGE

Health, Safety, and Code Requirements (06-1-002)

Appropriation:

The Evergreen State College Capital Projects	
Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$8,000,000
TOTAL	\$10,000,000

NEW SECTION. Sec. 702. FOR THE EVERGREEN STATE

COLLEGE

Infrastructure Preservation (06-1-004)

Appropriation:

The Evergreen State College Capital Projects	
Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$2,450,000
TOTAL	\$3,450,000

NEW SECTION. Sec. 703. FOR THE EVERGREEN STATE

COLLEGE

Infrastructure Savings (06-1-751)

The appropriations in this section are subject to the following conditions and limitations: Projects that are completed in accordance with section 906 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Gardner-Evans Higher Education Construction	
Account—State	\$1
Subtotal Appropriation	\$2
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2

NEW SECTION. Sec. 704. FOR THE EVERGREEN STATE

COLLEGE

Preventive Facility Maintenance and Building System Repairs (06-1-750)

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

(1) Pursuant to definitions and provisions in section 925, chapter 26, Laws of 2003 1st sp. sess., the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation, the intent is to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility

maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 906 of this act does not apply to this appropriation.

(4) There is no intent to reappropriate amounts not expended by June 30, 2007.

Appropriation:

Education Construction Account—State	\$760,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$760,000

NEW SECTION. Sec. 705. FOR THE EVERGREEN STATE COLLEGE

Lab I First Floor Class/Laboratory Renovation (06-2-001)

Appropriation:

State Building Construction Account—State	\$3,100,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,100,000

NEW SECTION. Sec. 706. FOR THE EVERGREEN STATE COLLEGE

Minor Works - Facility Preservation (06-1-003)

Appropriation:

The Evergreen State College Capital Projects Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$12,000,000
TOTAL	\$16,000,000

NEW SECTION. Sec. 707. FOR THE EVERGREEN STATE COLLEGE

Minor Works Program (06-2-005)

Appropriation:

The Evergreen State College Capital Projects Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$2,725,000
TOTAL	\$3,225,000

NEW SECTION. Sec. 708. FOR THE EVERGREEN STATE COLLEGE

Prevention and Intervention Study to Stabilize Inmate Population (06-2-952)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the Washington state institute for public policy to study options to stabilize future prison population. The legislature intends to examine options that could stabilize the adult inmate population growth at the projected 2007 level in order to avoid construction of major prison facilities after construction of the Coyote Ridge correctional center. To do this, the legislature finds that sentencing options need to be examined in conjunction with prevention and intervention programs. The legislature finds that existing and current research underway by the Washington state institute for public policy can be synthesized to develop these options, in conjunction with sentencing options that will be developed by the sentencing guidelines commission. The Washington state institute for public policy shall build on the study required by chapter . . . (Engrossed Substitute Senate Bill No. 5763 (mental disorders treatment)), Laws of 2005, and study the net short-run and long-run fiscal savings to state and local governments of implementing evidence-based treatment human service and corrections programs and policies, including prevention and intervention programs, sentencing alternatives, and the use of risk factors in sentencing. The institute shall use the results from its 2004 report on cost-beneficial prevention and early intervention programs and its work on effective adult corrections programs to project total fiscal impacts under alternative implementation scenarios. The institute shall provide an interim report to the appropriate committees of the legislature by January 1, 2006, and a final report by October 1, 2006.

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$50,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$50,000

NEW SECTION. Sec. 709. FOR THE EVERGREEN STATE COLLEGE

Schools for the Deaf and Blind Comparative Study (06-2-951)

The appropriation in this section is subject to the following conditions and limitations: \$50,000 is provided solely for the Washington state institute for public policy to conduct a study of governance, financing, and service delivery at the state school for the deaf and the state school for the blind. The study shall compare the costs, operations, and educational approach of the two schools, including differences in the cultural and educational needs of the populations served; the extent of collaboration with public schools; and alignment between current and future service delivery, current capital facilities, and the schools' ten-year capital plans. The study shall also include a comparison to services provided in public schools; recommend how the schools could configure service delivery to complement and support school district programs; and examine which state agency should have responsibility for governance and oversight of the schools. To reduce duplication, the institute may update studies of the state school for the deaf conducted in 2002. The institute shall submit the

comparative study to the appropriate policy and fiscal committees of the legislature by December 1, 2005.

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$50,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$50,000

NEW SECTION. Sec. 710. FOR WESTERN WASHINGTON UNIVERSITY

Campus Infrastructure Development (98-2-024)

Reappropriation:

State Building Construction Account—State	\$1,420,000
Prior Biennia (Expenditures)	\$14,859,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$16,279,000

NEW SECTION. Sec. 711. FOR WESTERN WASHINGTON UNIVERSITY

Academic Instructional Center (02-2-026)

Reappropriation:

Gardner-Evans Higher Education Construction Account—State	\$3,000,000
--	-------------

Appropriation:

Gardner-Evans Higher Education Construction Account—State	\$51,438,000
Prior Biennia (Expenditures)	\$2,733,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$57,171,000

NEW SECTION. Sec. 712. FOR WESTERN WASHINGTON UNIVERSITY

Communications Facility (98-2-053)

Reappropriation:

Western Washington University Capital Projects Account—State	\$350,000
Prior Biennia (Expenditures)	\$36,043,400
Future Biennia (Projected Costs)	\$0
TOTAL	\$36,393,400

NEW SECTION. Sec. 713. FOR WESTERN WASHINGTON UNIVERSITY

Bond Hall Renovation/Asbestos Abatement (04-1-080)

Reappropriation:

Gardner-Evans Higher Education Construction Account—State	\$4,500,000
--	-------------

Prior Biennia (Expenditures)	\$400,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,900,000

***NEW SECTION. Sec. 714. FOR WESTERN WASHINGTON UNIVERSITY**

Campus Roadway Development (04-2-073)

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

(1) The purpose of the reappropriation is to complete a predesign of potential south campus roadway options and general circulation issues that avoids significant impacts on adjacent neighborhoods and conforms to the city of Bellingham traffic plans.

(2) The predesign shall also investigate options to achieve higher rates of alternative modes of transportation among faculty, staff, and students, minimize surface parking, and make improvements for traffic circulation, including public transit. Safe movement of pedestrians and bicyclists shall be a priority.

(3) Allotment for predesign is contingent upon the completion of a communication and public involvement plan for this project that is consistent with the significant projects section of the Western Washington University institutional master plan and adjacent neighborhood plans adopted by the city of Bellingham, the city of Bellingham Western Washington University neighborhood plan, and the neighborhood meeting requirements contained in Bellingham municipal code 20.40.060. The communication and public involvement plan shall seek to maximize public input through coordination of the planning effort with established neighborhood advisory groups and boards recognized by the city of Bellingham.

Reappropriation:

Western Washington University Capital Projects

Account—State	\$38,826
Prior Biennia (Expenditures)	\$290,174
Future Biennia (Projected Costs)	\$16,625,000
TOTAL	\$16,954,000

*Sec. 714 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 715. FOR WESTERN WASHINGTON UNIVERSITY

Facility Preservation Backlog Reduction (04-1-952)

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

(1) Pursuant to definitions and provisions in section 925, chapter 26, Laws of 2003 1st sp. sess., the reappropriation is provided solely to accomplish preservation work that improves existing state facilities in the worst relative condition for housed programs and current building occupants.

(2) With this reappropriation, the intent is to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preservation backlog reduction project funds shall be prioritized at local discretion to achieve the

above stated goal, with particular attention given to buildings currently rated in adequate to marginal condition.

(3) This section is subject to the same allotment procedures as a minor works category.

(4) Section 906 of this act does not apply to this reappropriation.

Reappropriation:

State Building Construction Account—State	\$1,950,000
Prior Biennia (Expenditures)	\$2,300,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,250,000

NEW SECTION. Sec. 716. FOR WESTERN WASHINGTON

UNIVERSITY

Miller Hall Renovation (04-1-953)

Reappropriation:

State Building Construction Account—State	\$62,418
Prior Biennia (Expenditures)	\$187,582
Future Biennia (Projected Costs)	\$34,750,000
TOTAL	\$35,000,000

NEW SECTION. Sec. 717. FOR WESTERN WASHINGTON

UNIVERSITY

Minor Works - Health, Safety, and Code (04-1-074)

Reappropriation:

State Building Construction Account—State	\$350,000
Prior Biennia (Expenditures)	\$650,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 718. FOR WESTERN WASHINGTON

UNIVERSITY

Minor Works - Infrastructure Preservation (04-1-075)

Reappropriation:

State Building Construction Account—State	\$130,000
Prior Biennia (Expenditures)	\$1,420,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,550,000

NEW SECTION. Sec. 719. FOR WESTERN WASHINGTON

UNIVERSITY

Infrastructure Savings (06-1-751)

The appropriations in this section are subject to the following conditions and limitations: Projects that are completed in accordance with section 906 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Gardner-Evans Higher Education Construction Account—State.....	\$1
Subtotal Appropriation.....	\$2
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$2

NEW SECTION. Sec. 720. FOR WESTERN WASHINGTON UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (06-1-750)

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

(1) Pursuant to definitions and provisions in section 925, chapter 26, Laws of 2003 1st sp. sess., the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation, the intent is to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 906 of this act does not apply to this appropriation.

(4) There is no intent to reappropriate amounts not expended by June 30, 2007.

Appropriation:

Education Construction Account—State.....	\$3,614,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$3,614,000

NEW SECTION. Sec. 721. FOR WESTERN WASHINGTON UNIVERSITY

Minor Works - Program (04-2-077)

Reappropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures).....	\$350,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$550,000

NEW SECTION. Sec. 722. FOR WESTERN WASHINGTON UNIVERSITY

Shannon Point Marine - Undergraduate Center (04-2-059)

The reappropriation in this section is subject to the following conditions and limitations: Any further appropriations for equipment or furnishings shall be met with local funds.

Reappropriation:

Western Washington University Capital Projects	
Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$998,329
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,998,329

NEW SECTION. Sec. 723. FOR WESTERN WASHINGTON UNIVERSITY

Minor Works - Facility Preservation (06-1-083)

Appropriation:

State Building Construction Account—State	\$4,290,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000
TOTAL	\$20,290,000

NEW SECTION. Sec. 724. FOR WESTERN WASHINGTON UNIVERSITY

Minor Works - Health, Safety, and Code (06-1-082)

Appropriation:

State Building Construction Account—State	\$2,580,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$8,000,000
TOTAL	\$10,580,000

NEW SECTION. Sec. 725. FOR WESTERN WASHINGTON UNIVERSITY

Minor Works - Infrastructure Preservation (06-1-084)

Appropriation:

State Building Construction Account—State	\$2,630,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$12,000,000
TOTAL	\$14,630,000

NEW SECTION. Sec. 726. FOR WESTERN WASHINGTON UNIVERSITY

Minor Works - Program (06-2-085)

Appropriation:

Western Washington University Capital Projects	
Account—State	\$8,900,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$36,000,000
TOTAL	\$44,900,000

NEW SECTION. Sec. 727. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Lewis and Clark Interpretive Infrastructure Grant (02-4-001)

Reappropriation:

State Building Construction Account—State	\$1,806,000
Prior Biennia (Expenditures)	\$194,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 728. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Pacific-Lewis and Clark Station Camp Park Project (02-S-001)

Reappropriation:

State Building Construction Account—State	\$1,047,000
Prior Biennia (Expenditures)	\$1,505,226
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,552,226

NEW SECTION. Sec. 729. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Washington Heritage Projects (02-4-004)

Reappropriation:

State Building Construction Account—State	\$399,000
Prior Biennia (Expenditures)	\$3,601,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 730. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Stadium Way Research Center-Code Violation Correction (04-1-003)

Reappropriation:

State Building Construction Account—State	\$293,000
Prior Biennia (Expenditures)	\$168,200
Future Biennia (Projected Costs)	\$0
TOTAL	\$461,200

NEW SECTION. Sec. 731. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Washington Heritage Projects (04-4-004)

Reappropriation:

State Building Construction Account—State	\$3,563,339
Prior Biennia (Expenditures)	\$436,661
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 732. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Olympia - State Capital Museum: Building Preservation (06-1-003)

Appropriation:

State Building Construction Account—State	\$330,694
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$330,694

NEW SECTION. Sec. 733. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Statewide - Washington Heritage Project Grants (06-4-004)

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

- (1) The appropriation is subject to the provisions of RCW 27.34.330.
- (2) The appropriation is provided solely for the following list of projects:

Project	Amount Recommended
Whatcom museum of history and art	\$133,303
Fort Walla Walla museum	\$150,000
Northwest maritime center	\$345,000
Squaxin Island tribal museum library and research center	\$210,539
Confluence project	\$500,000
City of Tumwater	\$70,901
City of Tacoma	\$350,000
Fox theater	\$102,000
Shoreline historical museum	\$143,578
Metro park district of Tacoma	\$35,000
Seattle parks department	\$150,000
Armed forces and aerospace museum	\$295,000
City of Lynnwood	\$85,294
Meadowbrook farm interpretive center	\$72,149
Center for wooden boats	\$100,000
Bainbridge Island historical society	\$207,957
Quileute tribal council	\$150,000
Northwest railway museum	\$360,000
Port Gamble S'Klallam tribe	\$363,579
Concrete heritage museum association	\$12,750
Quincy Valley historical society and museum	\$23,300
Foss waterway development authority	\$250,000
Broadway center for the performing arts	\$225,000
Village theatre	\$65,581
White river valley museum	\$99,069
Cascade land conservancy	\$112,500
TOTAL	\$4,612,500

Appropriation:

State Building Construction Account—State	\$4,612,500
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000

TOTAL \$20,612,500

NEW SECTION. Sec. 734. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Tacoma - Research Center: Building Preservation (06-1-002)

Appropriation:

State Building Construction Account—State \$181,650
Prior Biennia (Expenditures)..... \$0
Future Biennia (Projected Costs)..... \$0
TOTAL \$181,650

NEW SECTION. Sec. 735. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Tacoma-State History Museum Building Preservation (06-1-001)

Appropriation:

State Building Construction Account—State \$481,344
Prior Biennia (Expenditures)..... \$0
Future Biennia (Projected Costs)..... \$0
TOTAL \$481,344

NEW SECTION. Sec. 736. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

History and American Indian Education Classrooms (06-2-002)

Appropriation:

State Building Construction Account—State \$156,000
Prior Biennia (Expenditures)..... \$0
Future Biennia (Projected Costs)..... \$0
TOTAL \$156,000

NEW SECTION. Sec. 737. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

Museum Preservation (06-1-001)

The appropriation in this section is subject to the following conditions and limitations: \$114,000 is provided solely for exterior preservation and sewer line repair of historic Campbell house and Carriage house. The balance of the request is for unforeseen emergencies that might endanger the museum structures or the valuable collections they contain, or affect staff and visitor health and safety.

Appropriation:

State Building Construction Account—State \$250,000
Prior Biennia (Expenditures)..... \$35,000
Future Biennia (Projected Costs)..... \$1,150,000
TOTAL \$1,435,000

NEW SECTION. Sec. 738. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clark College: Clark Center at WSU Vancouver (00-2-680)

Reappropriation:

State Building Construction Account—State	\$27,902
Gardner-Evans Higher Education Construction	
Account—State.	\$14,860,252
Subtotal Reappropriation	\$14,888,154
Prior Biennia (Expenditures)	\$4,885,646
Future Biennia (Projected Costs)	\$0
TOTAL	\$19,773,800

NEW SECTION. Sec. 739. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Highline Community College: Higher Education Center/Childcare (00-2-678)

The reappropriations in this section are subject to the following conditions and limitations: Up to \$550,000 may be used to develop additional parking needed to support this project.

Reappropriation:

Community/Technical College Capital Projects	
Account—State.	\$320,035
Gardner-Evans Higher Education Construction	
Account—State.	\$1,400,406
Subtotal Reappropriation	\$1,720,441
Prior Biennia (Expenditures)	\$19,726,559
Future Biennia (Projected Costs)	\$0
TOTAL	\$21,447,000

NEW SECTION. Sec. 740. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Pierce College Puyallup: Phase III Expansion (00-2-676)

Reappropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$5,101,510
Prior Biennia (Expenditures)	\$20,233,464
Future Biennia (Projected Costs)	\$0
TOTAL	\$25,334,974

NEW SECTION. Sec. 741. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Puget Sound Community College: Humanities/General Education Complex (00-2-679)

Reappropriation:

State Building Construction Account—State	\$8,875,459
Prior Biennia (Expenditures)	\$10,379,789
Future Biennia (Projected Costs)	\$0
TOTAL	\$19,255,248

NEW SECTION. Sec. 742. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Whatcom Community College: Classroom/Lab Building (00-2-677)

Reappropriation:

State Building Construction Account—State	\$219,893
Prior Biennia (Expenditures)	\$11,684,407
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,904,300

NEW SECTION. Sec. 743. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Yakima Valley Community College: Higher Education Center (00-2-954)

Reappropriation:

State Building Construction Account—State	\$777,312
Prior Biennia (Expenditures)	\$19,722,688
Future Biennia (Projected Costs)	\$0
TOTAL	\$20,500,000

NEW SECTION. Sec. 744. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Green River Community College: Science Building (01-2-688)

Reappropriation:

Community/Technical College Capital Projects Account—State	\$957,375
---	-----------

Appropriation:

State Building Construction Account—State	\$27,407,344
Prior Biennia (Expenditures)	\$1,539,034
Future Biennia (Projected Costs)	\$0
TOTAL	\$29,903,753

NEW SECTION. Sec. 745. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Tacoma Community College: Science Building (01-2-687)

Reappropriation:

State Building Construction Account—State	\$1,324,163
---	-------------

Appropriation:

State Building Construction Account—State	\$29,517,238
Prior Biennia (Expenditures)	\$1,154,837
Future Biennia (Projected Costs)	\$0
TOTAL	\$31,996,238

NEW SECTION. Sec. 746. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bates Technical College: LRC/Vocational (02-2-684)

Reappropriation:

State Building Construction Account—State	\$953,271
---	-----------

Appropriation:

State Building Construction Account—State	\$15,169,058
Prior Biennia (Expenditures)	\$937,281
Future Biennia (Projected Costs)	\$0
TOTAL	\$17,059,610

NEW SECTION. Sec. 747. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellingham Technical College: Replacement (02-1-239)

Reappropriation:

State Building Construction Account—State	\$311,102
Prior Biennia (Expenditures)	\$4,046,798
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,357,900

NEW SECTION. Sec. 748. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Cascadia Community College/University of Washington Bothell: Phase 2B Off Ramp (02-2-999)

Reappropriation:

Gardner-Evans Higher Education Construction Account—State	\$1,742,500
Prior Biennia (Expenditures)	\$7,500
Future Biennia (Projected Costs)	\$11,800,506
TOTAL	\$13,550,506

NEW SECTION. Sec. 749. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Edmonds Community College: Instructional Lab Building - Construction (02-2-685)

Reappropriation:

State Building Construction Account—State	\$573,448
---	-----------

Appropriation:

State Building Construction Account—State	\$14,490,832
Prior Biennia (Expenditures)	\$2,423,612
Future Biennia (Projected Costs)	\$0
TOTAL	\$17,487,892

NEW SECTION. Sec. 750. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Facility Repairs "A" (02-1-050)

Reappropriation:

Education Construction Account—State	\$1,425,677
Prior Biennia (Expenditures)	\$20,234,651
Future Biennia (Projected Costs)	\$0
TOTAL	\$21,660,328

NEW SECTION. Sec. 751. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lake Washington Technical College: Replacement (02-1-240)

Reappropriation:

State Building Construction Account—State	\$2,593,957
Prior Biennia (Expenditures)	\$4,321,343
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,915,300

NEW SECTION. Sec. 752. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Peninsula College: Buildings D and E Renovation (02-1-310)

Reappropriation:

State Building Construction Account—State	\$259,718
Prior Biennia (Expenditures)	\$2,410,082
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,669,800

NEW SECTION. Sec. 753. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Seattle Central Community College: Edison Hall Renovation (02-1-315)

Reappropriation:

State Building Construction Account—State	\$4,317,752
Prior Biennia (Expenditures)	\$1,491,448
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,809,200

NEW SECTION. Sec. 754. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Seattle Central Community College: Portables Replacement (02-1-215)

Reappropriation:

State Building Construction Account—State	\$6,209,830
Prior Biennia (Expenditures)	\$687,570
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,897,400

NEW SECTION. Sec. 755. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Shoreline Community College: Building 800 Renovation (02-1-319)

Reappropriation:

State Building Construction Account—State	\$403,444
Prior Biennia (Expenditures)	\$5,617,656
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,021,100

NEW SECTION. Sec. 756. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Skagit Valley College: Office Space Replacement (02-1-213)

Reappropriation:

Community/Technical College Capital Projects	
Account—State.	\$355,690
Prior Biennia (Expenditures)	\$406,999
Future Biennia (Projected Costs)	\$0
TOTAL	\$762,689

NEW SECTION. Sec. 757. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Puget Sound Community College: Family Education Center/Child Center (02-1-238)

Reappropriation:

State Building Construction Account—State	\$458,285
Prior Biennia (Expenditures)	\$6,673,715
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,132,000

NEW SECTION. Sec. 758. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Seattle Community College: Building "A" Replacement (02-1-217)

Reappropriation:

State Building Construction Account—State	\$75,588
Prior Biennia (Expenditures)	\$5,401,812
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,477,400

NEW SECTION. Sec. 759. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Spokane Falls Community College: Library Renovation (02-1-331)

Reappropriation:

State Building Construction Account—State	\$231,625
Prior Biennia (Expenditures)	\$5,370,375
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,602,000

NEW SECTION. Sec. 760. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Tacoma Community College: Information Technology Vocational Center (02-2-683)

Reappropriation:

State Building Construction Account—State	\$3,825,132
Prior Biennia (Expenditures)	\$11,904,868
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,730,000

NEW SECTION. Sec. 761. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Walla Walla Community College: Basic Skills/Computer Lab (02-2-686)

Reappropriation:

Gardner-Evans Higher Education Construction
Account—State \$508,951

Appropriation:

Gardner-Evans Higher Education Construction
Account—State \$6,569,000

Prior Biennia (Expenditures) \$100,349
Future Biennia (Projected Costs) \$0
TOTAL \$7,178,300

NEW SECTION. Sec. 762. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Job Creation and Infrastructure Projects (03-1-001)

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

- (1) The reappropriation in this section shall support the projects as listed in section 224, chapter 238, Laws of 2002.
- (2) The legislature does not intend to reappropriate amounts not expended by June 30, 2007.

Reappropriation:

Education Construction Account—State \$1,310,520

Prior Biennia (Expenditures) \$25,289,655
Future Biennia (Projected Costs) \$0
TOTAL \$26,600,175

NEW SECTION. Sec. 763. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bates-Clover Park Equipment Improvements (04-2-950)

Reappropriation:

Community/Technical College Capital Projects
Account—State \$179,975

Prior Biennia (Expenditures) \$2,820,025
Future Biennia (Projected Costs) \$0
TOTAL \$3,000,000

NEW SECTION. Sec. 764. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellevue Community College: NWCET Expansion (04-2-402)

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

- (1) The purpose of the reappropriation is to build an additional 4,000 square feet of open lab space to accommodate new and expanding information technology and media programs.
- (2) State funds will be matched with nonstate resources of at least \$500,000.

(3) Allotment of funds shall be in accordance with RCW 43.88.150.

Reappropriation:

Community/Technical College Capital Projects	
Account—State	\$312,493
Prior Biennia (Expenditures)	\$187,507
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 765. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellevue Community College: "D" Building Renovation (04-1-308)

Reappropriation:

State Building Construction Account—State	\$11,418,700
Community/Technical College Capital Projects	
Account—State	\$973,646
Subtotal Reappropriation	\$12,392,346
Prior Biennia (Expenditures)	\$1,026,354
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,418,700

NEW SECTION. Sec. 766. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellevue Community College: Science and Technology (04-2-690)

Appropriation:

State Building Construction Account—State	\$7,647,600
Prior Biennia (Expenditures)	\$90,000
Future Biennia (Projected Costs)	\$30,791,460
TOTAL	\$38,529,060

NEW SECTION. Sec. 767. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellingham Technical College: Welding/Auto Collision Replacement (04-1-213)

Reappropriation:

State Building Construction Account—State	\$1,704,053
Gardner-Evans Higher Education Construction	
Account—State	\$14,357,000
Subtotal Reappropriation	\$16,061,053
Prior Biennia (Expenditures)	\$776,947
Future Biennia (Projected Costs)	\$0
TOTAL	\$16,838,000

NEW SECTION. Sec. 768. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Cascadia Community College: Center for Arts, Technology, Communications (04-2-693)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State.....	\$3,031,000
Prior Biennia (Expenditures).....	\$159,900
Future Biennia (Projected Costs).....	\$32,636,100
TOTAL	\$35,827,000

NEW SECTION. Sec. 769. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Centralia Community College: Science Building (04-2-850)

Appropriation:

State Building Construction Account—State	\$3,247,000
Prior Biennia (Expenditures).....	\$150,000
Future Biennia (Projected Costs).....	\$28,676,490
TOTAL	\$32,073,490

NEW SECTION. Sec. 770. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clark College: East County Satellite (04-1-689)

Reappropriation:

State Building Construction Account—State	\$74,507
---	----------

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State.....	\$2,392,000
Prior Biennia (Expenditures).....	\$225,493
Future Biennia (Projected Costs).....	\$27,777,125
TOTAL	\$30,469,125

NEW SECTION. Sec. 771. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clark College: Renovation - Applied Arts 5 (04-1-303)

Reappropriation:

State Building Construction Account—State	\$927,047
Prior Biennia (Expenditures).....	\$2,945,366
Future Biennia (Projected Costs).....	\$0
TOTAL	\$3,872,413

NEW SECTION. Sec. 772. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clark College: Stout Hall (04-1-203)

Reappropriation:

State Building Construction Account—State	\$3,810,514
Prior Biennia (Expenditures).....	\$239,375
Future Biennia (Projected Costs).....	\$0
TOTAL	\$4,049,889

NEW SECTION. Sec. 773. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Columbia Basin College: Renovation T Building (04-1-307)

Reappropriation:

State Building Construction Account—State	\$531,710
Prior Biennia (Expenditures)	\$5,526,790
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,058,500

NEW SECTION. Sec. 774. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Edmonds Community College: Renovation - Mountlake Terrace Hall (04-1-311)

Reappropriation:

State Building Construction Account—State	\$7,399,092
Prior Biennia (Expenditures)	\$1,427,938
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,827,030

NEW SECTION. Sec. 775. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Everett Community College: Pilchuck/Glacier (04-1-205)

Reappropriation:

State Building Construction Account—State	\$907,033
---	-----------

Appropriation:

State Building Construction Account—State	\$17,633,300
Prior Biennia (Expenditures)	\$404,667
Future Biennia (Projected Costs)	\$0
TOTAL	\$18,945,000

NEW SECTION. Sec. 776. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Everett Community College: Replacement - Monte Cristo Hall (04-1-305)

Reappropriation:

State Building Construction Account—State	\$6,926,247
Prior Biennia (Expenditures)	\$425,753
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,352,000

NEW SECTION. Sec. 777. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Everett Community College: Undergraduate Education Center (04-2-692)

Appropriation:

State Building Construction Account—State	\$7,363,700
Prior Biennia (Expenditures)	\$126,000
Future Biennia (Projected Costs)	\$27,407,540
TOTAL	\$34,897,240

NEW SECTION. Sec. 778. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Facility Preservation Backlog Reduction (04-1-951)

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

(1) Pursuant to definitions and provisions in section 925, chapter 26, Laws of 2003 1st sp. sess., the reappropriation is provided solely to accomplish preservation work that improves existing state facilities in the worst relative condition for housed programs and current building occupants.

(2) With this reappropriation, the intent is to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preservation backlog reduction project funds shall be prioritized at local discretion to achieve the above stated goal, with particular attention given to buildings currently rated in adequate to marginal condition.

(3) This section is subject to the same allotment procedures as a minor works category.

(4) Section 906 of this act does not apply to this reappropriation.

Reappropriation:

State Building Construction Account—State	\$40,824,753
Prior Biennia (Expenditures)	\$23,475,247
Future Biennia (Projected Costs)	\$0
TOTAL	\$64,300,000

NEW SECTION. Sec. 779. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Grays Harbor College: Replacement - Instructional Building (04-1-204)

Reappropriation:

State Building Construction Account—State	\$229,284
Gardner-Evans Higher Education Construction Account—State	\$19,471,749
Subtotal Reappropriation	\$19,701,033
Prior Biennia (Expenditures)	\$1,034,016
Future Biennia (Projected Costs)	\$0
TOTAL	\$20,735,049

NEW SECTION. Sec. 780. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Green River Community College: Computer Technology Center (04-2-682)

Reappropriation:

State Building Construction Account—State	\$3,228,751
Prior Biennia (Expenditures)	\$8,770,749
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,999,500

NEW SECTION. Sec. 781. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lake Washington Technical College: Renovation - East/West Buildings (04-1-312)

Reappropriation:

State Building Construction Account—State	\$3,463,880
Prior Biennia (Expenditures)	\$956,920
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,420,800

NEW SECTION. Sec. 782. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lake Washington Technical College: Redmond Land Acquisition (04-2-403)

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

- (1) The purpose of the reappropriation is to purchase property for expansion, storm water retention, and parking requirements.
- (2) State funds must be matched with nonstate resources of at least \$500,000.
- (3) Allotment of funds shall be in accordance with RCW 43.88.150.

Reappropriation:

Community/Technical College Capital Projects Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 783. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lower Columbia College: Instructional Fine Arts Building (04-1-214)

Reappropriation:

State Building Construction Account—State	\$1,758,314
Gardner-Evans Higher Education Construction Account—State	\$1,589,727
Subtotal Reappropriation	\$3,348,041

Appropriation:

Gardner-Evans Higher Education Construction Account—State	\$20,333,976
Prior Biennia (Expenditures)	\$979,758
Future Biennia (Projected Costs)	\$0
TOTAL	\$24,661,775

NEW SECTION. Sec. 784. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Works - Program (Minor Improvements) (04-2-130)

Reappropriation:

State Building Construction Account—State	\$1,257,113
---	-------------

Community/Technical College Capital Projects	
Account—State	\$4,894,945
Subtotal Reappropriation	\$6,152,058
Prior Biennia (Expenditures)	\$8,827,159
Future Biennia (Projected Costs)	\$0
TOTAL	\$14,979,217

NEW SECTION. Sec. 785. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

North Seattle Community College: Arts and Science Renovation (04-1-309)

Reappropriation:

State Building Construction Account—State	\$303,265
Prior Biennia (Expenditures)	\$6,482,435
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,785,700

NEW SECTION. Sec. 786. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Olympic College: Science and Technology Building Replacement (04-1-202)

The reappropriation in this section is subject to the following conditions and limitations: Up to \$8,110,000 is provided as additional support for this project by the reappropriation in section 778 of this act.

Reappropriation:

State Building Construction Account—State	\$10,998,000
Community/Technical College Capital Projects	
Account—State	\$2,361,964
Subtotal Reappropriation	\$13,359,964
Prior Biennia (Expenditures)	\$638,036
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,998,000

NEW SECTION. Sec. 787. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Peninsula College: Replacement Science and Technology Building (04-1-208)

Reappropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$468,734

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$22,423,200
Prior Biennia (Expenditures)	\$748,066
Future Biennia (Projected Costs)	\$0
TOTAL	\$23,640,000

NEW SECTION. Sec. 788. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Pierce College - Fort Steilacoom: Science and Technology (04-2-694)

Appropriation:

State Building Construction Account—State	\$1,986,447
Prior Biennia (Expenditures)	\$190,000
Future Biennia (Projected Costs)	\$30,106,553
TOTAL	\$32,283,000

NEW SECTION. Sec. 789. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Pierce College Puyallup: Community Arts/Allied Health (04-2-691)

Appropriation:

Gardner-Evans Higher Education Construction Account—State.	\$1,946,716
Prior Biennia (Expenditures)	\$150,000
Future Biennia (Projected Costs)	\$25,303,284
TOTAL	\$27,400,000

NEW SECTION. Sec. 790. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Pierce College Fort Steilacoom: Childcare Center (04-2-401)

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

- (1) The purpose of the reappropriation is to construct a 10,000 square foot childcare center as identified in the college's master plan.
- (2) State funds must be matched with nonstate resources in the amount of \$2,250,000.
- (3) Allotment of funds shall be in accordance with RCW 43.88.150.

Reappropriation:

Community/Technical College Capital Projects Account—State.	\$497,338
Prior Biennia (Expenditures)	\$2,662
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 791. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Renton Technical College: Portable Replacement (04-1-215)

Reappropriation:

State Building Construction Account—State	\$404,905
---	-----------

Appropriation:

State Building Construction Account—State	\$2,976,235
Prior Biennia (Expenditures)	\$14,395
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,395,535

NEW SECTION. Sec. 792. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Roof Repairs "A" (04-1-010)

Reappropriation:

State Building Construction Account—State	\$3,572,735
Prior Biennia (Expenditures)	\$3,692,942
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,265,677

NEW SECTION. Sec. 793. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Seattle Central Community College: Replacement North Plaza Building (04-1-275)

Reappropriation:

State Building Construction Account—State	\$4,976,200
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,976,200

NEW SECTION. Sec. 794. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Site Repairs "A" (04-1-090)

Reappropriation:

State Building Construction Account—State	\$2,692,856
Prior Biennia (Expenditures)	\$2,612,768
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,305,624

NEW SECTION. Sec. 795. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Skagit Valley College: Science Building Replacement (04-1-209)

Reappropriation:

State Building Construction Account—State	\$14,664
---	----------

Appropriation:

State Building Construction Account—State	\$2,693,000
Prior Biennia (Expenditures)	\$285,336
Future Biennia (Projected Costs)	\$24,268,049
TOTAL	\$27,261,049

NEW SECTION. Sec. 796. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Puget Sound Community College: Science Complex (04-2-695)

Appropriation:

Gardner-Evans Higher Education Construction Account—State	\$3,160,500
Prior Biennia (Expenditures)	\$93,200

Future Biennia (Projected Costs)	\$25,867,300
TOTAL	\$29,121,000

NEW SECTION. Sec. 797. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Seattle Community College: Instruction Technology Center (04-2-681)

Reappropriation:

State Building Construction Account—State	\$1,280,107
Prior Biennia (Expenditures)	\$17,580,893
Future Biennia (Projected Costs)	\$0
TOTAL	\$18,861,000

NEW SECTION. Sec. 798. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Seattle Community College: Renovation - Pastry Vocational Program (04-1-314)

Reappropriation:

Community/Technical College Capital Projects Account—State	\$2,545,470
Prior Biennia (Expenditures)	\$67,630
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,613,100

NEW SECTION. Sec. 799. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Spokane Community College: Science Building Replacement (04-1-212)

Reappropriation:

State Building Construction Account—State	\$14,838,825
Prior Biennia (Expenditures)	\$882,775
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,721,600

NEW SECTION. Sec. 800. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Tacoma Community College: Renovation - Building 7 (04-1-313)

Reappropriation:

State Building Construction Account—State	\$4,759,822
Prior Biennia (Expenditures)	\$228,178
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,988,000

NEW SECTION. Sec. 801. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Tacoma Community College: Replacement - Portable Buildings (04-1-206)

Reappropriation:

State Building Construction Account—State	\$2,401,778
---	-------------

Prior Biennia (Expenditures)	\$220,222
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,622,000

NEW SECTION. Sec. 802. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Walla Walla Community College: Health Science Facility (04-1-211)

Reappropriation:

Community/Technical College Capital Projects	
Account—State	\$6,763,672
Prior Biennia (Expenditures)	\$497,728
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,261,400

NEW SECTION. Sec. 803. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Yakima Valley Community College: Glenn/Anthon Hall - Replacement (04-1-207)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$28,645,152
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$28,645,152

NEW SECTION. Sec. 804. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Yakima Valley Community College: Renovation - Sundquist (04-1-302)

Reappropriation:

State Building Construction Account—State	\$654,799
Prior Biennia (Expenditures)	\$3,197,901
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,852,700

NEW SECTION. Sec. 805. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Columbia Basin College: Health Sciences Center (05-2-851)

Reappropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$1,857,624

Appropriation:

State Building Construction Account—State	\$6,000,000
Prior Biennia (Expenditures)	\$142,376
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,000,000

NEW SECTION. Sec. 806. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Employability Colocation Study (05-4-850)

Reappropriation:

Community/Technical College Capital Projects	
Account—State.	\$18,167
Prior Biennia (Expenditures)	\$31,833
Future Biennia (Projected Costs)	\$0
TOTAL	\$50,000

NEW SECTION. Sec. 807. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Seattle: Training Facility (05-1-854)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is for the construction of a training facility and a separate academic/administrative facility to replace light wood frame structures.

Reappropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$710,002

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$9,272,283
Prior Biennia (Expenditures)	\$11,998
Future Biennia (Projected Costs)	\$0
TOTAL	\$9,994,283

NEW SECTION. Sec. 808. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Spokane Falls: Business and Social Science Building (05-1-853)

Reappropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$1,754,854

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$18,512,385
Prior Biennia (Expenditures)	\$45,146
Future Biennia (Projected Costs)	\$0
TOTAL	\$20,312,385

NEW SECTION. Sec. 809. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Wenatchee Valley College: Anderson Hall and Portable Replacement (05-1-852)

Reappropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$1,285,924

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$23,042,145
Prior Biennia (Expenditures)	\$332,076
Future Biennia (Projected Costs)	\$0
TOTAL	\$24,660,145

NEW SECTION. Sec. 810. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellevue Community College: Flood Damage (06-1-331)

Appropriation:

State Building Construction Account—State	\$700,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$700,000

NEW SECTION. Sec. 811. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Big Bend Community College: Performing Arts and Fine Arts (06-1-309)

Appropriation:

State Building Construction Account—State	\$3,698,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,698,000

NEW SECTION. Sec. 812. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clark College: Gaiser Hall Renovation (06-1-302)

Appropriation:

State Building Construction Account—State	\$8,374,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,374,000

NEW SECTION. Sec. 813. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clark College: O'Connell Sports Center Improvements (06-2-403)

Appropriation:

State Building Construction Account—State	\$650,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$650,000

NEW SECTION. Sec. 814. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clover Park Technical College: Allied Health Care Facility (06-2-699)

Appropriation:

State Building Construction Account—State	\$160,000
---	-----------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$25,085,285
TOTAL	\$25,245,285

NEW SECTION. Sec. 815. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clover Park Technical College: Personal Care Services Facility (06-1-310)

Appropriation:

State Building Construction Account—State	\$6,499,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,499,000

NEW SECTION. Sec. 816. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Columbia Basin College: Diversity Initiatives Office (06-2-409)

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 817. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Edmonds Community College: Brier Hall Renovation (06-1-307)

Appropriation:

State Building Construction Account—State	\$5,133,020
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,133,020

NEW SECTION. Sec. 818. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Everett Community College: Paine Field Technical Center (06-2-408)

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 819. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Facility Repairs (06-1-050)

Appropriation:

Community/Technical College Capital Projects Account—State	\$22,327,000
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs).....	\$92,000,000
TOTAL	\$114,327,000

NEW SECTION. Sec. 820. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Grays Harbor College: Ilwaco Education Center (06-2-401)

Appropriation:

State Building Construction Account—State	\$350,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$350,000

NEW SECTION. Sec. 821. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Grays Harbor College: Vocational Education Renovation (06-1-303)

Appropriation:

State Building Construction Account—State	\$5,371,199
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$5,371,199

NEW SECTION. Sec. 822. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Green River Community College: General Classroom Building (06-1-205)

Appropriation:

State Building Construction Account—State	\$137,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$26,629,327
TOTAL	\$26,766,327

NEW SECTION. Sec. 823. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Green River Community College: Physical Education Renovation (06-1-313)

Appropriation:

State Building Construction Account—State	\$477,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$3,437,000
TOTAL	\$3,914,000

NEW SECTION. Sec. 824. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Green River Community College: Skills Support Center Addition (06-2-405)

Appropriation:

State Building Construction Account—State	\$800,000
Prior Biennia (Expenditures).....	\$0

Future Biennia (Projected Costs) \$0
TOTAL \$800,000

NEW SECTION. Sec. 825. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Highline Community College: Marine Science and Technology (06-2-406)

Appropriation:

State Building Construction Account—State \$500,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$0
TOTAL \$500,000

NEW SECTION. Sec. 826. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lake Washington Technical College: Allied Health Building (06-2-697)

Appropriation:

State Building Construction Account—State \$197,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$26,317,259
TOTAL \$26,514,259

NEW SECTION. Sec. 827. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lake Washington Technical College: Science Lab Renovation (06-1-308)

Appropriation:

State Building Construction Account—State \$1,758,237
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$0
TOTAL \$1,758,237

NEW SECTION. Sec. 828. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Works: Program (06-2-130)

Appropriation:

State Building Construction Account—State \$20,002,598
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$80,000,000
TOTAL \$100,002,598

NEW SECTION. Sec. 829. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Works Preservation (RMI) (06-1-001)

Appropriation:

Community/Technical College Capital Projects
Account—State \$14,000,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$67,000,000

TOTAL \$81,000,000

NEW SECTION. Sec. 830. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Infrastructure Savings (06-1-751)

The appropriations in this section are subject to the following conditions and limitations: Projects that are completed in accordance with section 906 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Gardner-Evans Higher Education Construction Account—State.....	\$1
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$2

NEW SECTION. Sec. 831. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Preventive Facility Maintenance and Building System Repairs (06-1-750)

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

(1) Pursuant to definitions and provisions in section 925, chapter 26, Laws of 2003 1st sp. sess., the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems and campus infrastructure. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems and campus infrastructure must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation, the intent is to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at the state board's discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 906 of this act does not apply to this appropriation.

(4) There is no intent to reappropriate amounts not expended by June 30, 2007.

Appropriation:

Education Construction Account—State.....	\$22,802,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$22,802,000

NEW SECTION. Sec. 832. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

North Seattle Community College: Wellness Center Repairs (06-1-330)

Appropriation:

State Building Construction Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 833. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Olympic College: Bremer Student Center (06-2-411)

Appropriation:

State Building Construction Account—State	\$600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$600,000

NEW SECTION. Sec. 834. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Olympic College: Humanities and Student Services (06-1-204)

Appropriation:

State Building Construction Account—State	\$3,499,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$39,615,000
TOTAL	\$43,114,000

NEW SECTION. Sec. 835. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Peninsula College: Library Renovation (06-1-305)

Appropriation:

State Building Construction Account—State	\$14,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$14,000,000

NEW SECTION. Sec. 836. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Peninsula College: Phase II Cultural and Arts Center (06-2-412)

Appropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 837. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Pierce College Fort Steilacoom: Cascade Building Renovation (06-1-326)

Appropriation:

State Building Construction Account—State	\$3,350,622
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$14,601,736
TOTAL	\$17,952,358

NEW SECTION. Sec. 838. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Roof Repairs (06-1-010)

Appropriation:

Community/Technical College Capital Projects Account—State	\$8,840,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$20,000,000
TOTAL	\$28,840,000

NEW SECTION. Sec. 839. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Seattle Central Community College: Greenhouse/Educational Center (06-2-410)

Appropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 840. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Seattle Central Community College: Information Technology and Visual Communications (06-1-304)

Appropriation:

State Building Construction Account—State	\$8,096,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,096,000

NEW SECTION. Sec. 841. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Shoreline Community College: Annex Renovation (06-1-312)

Appropriation:

State Building Construction Account—State	\$2,739,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,739,000

NEW SECTION. Sec. 842. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Site Repairs (06-1-090)

Appropriation:

Community/Technical College Capital Projects	
Account—State	\$3,837,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$20,000,000
TOTAL	\$23,837,000

NEW SECTION. Sec. 843. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Puget Sound Community College: Learning Resource Center (06-2-698)

Appropriation:

State Building Construction Account—State	\$197,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$38,650,300
TOTAL	\$38,847,300

NEW SECTION. Sec. 844. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Seattle Community College: Automotive Collision Technology (06-1-306)

Appropriation:

State Building Construction Account—State	\$1,972,300
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,972,300

NEW SECTION. Sec. 845. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Seattle Community College: Horticulture/SCGS Classrooms (06-2-404)

Appropriation:

State Building Construction Account—State	\$557,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$557,000

NEW SECTION. Sec. 846. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Spokane Falls Community College: Campus Classrooms (06-2-696)

Appropriation:

State Building Construction Account—State	\$82,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$20,488,000
TOTAL	\$20,570,000

NEW SECTION. Sec. 847. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Walla Walla Community College: Clarkston Health Science Facility (06-2-402)

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 848. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Wenatchee Valley College: Brown Library Renovation (06-1-311)

Appropriation:

State Building Construction Account—State	\$2,404,300
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,404,300

NEW SECTION. Sec. 849. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Yakima Valley Community College: Center for Workforce Education (06-2-407)

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 850. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Yakima Valley Community College: Raymond Hall Renovation (06-1-325)

Appropriation:

State Building Construction Account—State	\$4,168,350
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,168,350

NEW SECTION. Sec. 851. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Big Bend Community College: Aviation Program Fleet Replacement (06-2-953)

Appropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0

TOTAL\$500,000

NEW SECTION. Sec. 852. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

North Seattle Community College: Employment Resource Center (06-2-851)

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

(1) The appropriation in this section is provided solely for predesign and design funding of a colocated one-stop office on the North Seattle Community College campus with the employment security department, the department of social and health services, and WorkSource partnering agencies. The facility will provide integrated services to offer direct opportunities for skill improvement and to enhance employment outcomes of Washington state citizens.

(2) Prior to allotment for design, the state board for community and technical colleges shall submit a predesign document to the office of financial management and legislative fiscal committees identifying and outlining the project, scope, schedule, and preliminary cost estimates anticipated for the building, including identification of a revenue stream sufficient to pay future debt service costs on a certificate of participation.

Appropriation:

State Building Construction Account—State	\$520,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$520,000

NEW SECTION. Sec. 853. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Walla Walla Community College: Center for Water and Environmental Studies (06-2-853)

Appropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 854. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Edmonds Community College: Center for Fine Arts and Performing Arts (06-2-950)

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 855. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Shoreline Community College: Automotive Building (Phase 1) (06-2-951)

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 856. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Puget Sound Community College: Satellite Campus Acquisition (06-2-952)

Appropriation:

State Building Construction Account—State	\$4,700,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,700,000

**PART 6
MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS**

MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 901. The estimated debt service costs impacting future general fund expenditures related solely to new capital appropriations within this act are \$19,503,912 during the 2005-2007 fiscal period; \$128,151,322 during the 2007-2009 fiscal period; \$200,451,220 during the 2009-2011 fiscal period; \$207,686,311 during the 2011-2013 fiscal period; and \$210,558,739 during the 2013-2015 period.

NEW SECTION. Sec. 902. (1) Allotments for appropriations in this act shall be provided in accordance with the capital project review requirements adopted by the office of financial management. The office of financial management shall notify the house of representatives capital budget committee and the senate ways and means committee of allotment releases based on review by the office of financial management. No expenditure may be incurred or obligation entered into for appropriations in this act until the office of financial management has given final approval to the allotment of the funds to be expended or encumbered. For allotments under this act, the allotment process includes, in addition to the statement of proposed expenditures for the current biennium, a category or categories for any reserve amounts and amounts expected to be expended in future biennia. Projects that will be employing alternative public works construction procedures under chapter 39.10 RCW are subject to the allotment procedures defined in this section and RCW 43.88.110. Contracts shall not be executed that call for expenditures in excess of the approved allotment, and the total amount shown in such contracts for the cost of future work that has not been appropriated shall not exceed the amount

identified for such work in the level of funding approved by the office of financial management at the completion of predesign.

(2) The legislature intends that each project be defined as proposed to the legislature in the governor's budget document, unless it clearly appears from the legislative history that the legislature intended to define the scope of a project in a different way.

NEW SECTION. Sec. 903. To ensure that major construction projects are carried out in accordance with legislative and executive intent, appropriations in this act in excess of \$5,000,000 shall not be expended or encumbered until the office of financial management has reviewed and approved the agency's predesign and other documents, and approved an allotment for the project that includes specific authorization to enter into a contract to expend or encumber funds. The predesign document shall include but not be limited to program, site, and cost analysis in accordance with the predesign manual adopted by the office of financial management. To improve monitoring of major construction projects, progress reports shall be submitted by the agency administering the project to the office of financial management and to the fiscal committees of the house of representatives and senate. Reports will be submitted on July 1st and December 31st each year in a format to be developed by the office of financial management.

NEW SECTION. Sec. 904. Appropriations in this act for design and construction of facilities on higher education campuses shall be expended only after funds are allotted to institutions of higher education on the basis of: (1) Comparable unit cost standards, as determined by the office of financial management in consultation with the higher education coordinating board; (2) costs consistent with other higher education teaching facilities in the state; and (3) student full-time equivalent enrollment levels as established by the office of financial management in consultation with the higher education coordinating board.

NEW SECTION. Sec. 905. (1) To ensure that minor works appropriations are carried out in accordance with legislative intent, funds appropriated in this act shall not be allotted until project lists are on file at the office of financial management and the office of financial management has formally approved the lists. Proposed revisions to the lists must be filed with and approved by the office of financial management before funds may be expended on the revisions.

(2)(a) Minor works projects are single line appropriations that include multiple projects valued between \$25,000 and \$1,000,000 each that are of a similar nature and can generally be completed within two years of the appropriation with the funding provided. Minor works categories include (i) health, safety, and code requirements; (ii) facility preservation; (iii) infrastructure preservation; and (iv) program improvement or expansion. Improvements for accessibility in compliance with the Americans with disabilities act may be included in any of the above minor works categories.

(b) Minor works appropriations shall not be used for, among other things: Studies, except for technical or engineering reviews or designs that lead directly to and support a project on the same minor works list; planning; design outside the scope of work on a minor works list; moveable, temporary, and traditionally funded operating equipment not in compliance with the equipment criteria

established by the office of financial management; software not dedicated to control of a specialized system; moving expenses; land or facility acquisition; or to supplement funding for projects with funding shortfalls unless expressly authorized elsewhere in this act. The office of financial management may make an exception to the limitations described in this subsection (2)(b) for exigent circumstances after notifying the legislative fiscal committees and waiting ten days for comments by the legislature regarding the proposed exception.

(3) The office of financial management shall forward copies of these project lists and revised lists to the house of representatives capital budget committee and the senate ways and means committee. No expenditure may be incurred or obligation entered into for minor works appropriations until the office of financial management has approved the allotment of the funds to be expended. The office of financial management shall encourage state agencies to incorporate accessibility planning and improvements into the normal and customary capital program.

(4) It is generally not intended to make future appropriations for capital expenditures or for maintenance and operating expenses for an acquisition project or a significant expansion project that is initiated through the minor works process and therefore does not receive a policy and fiscal analysis by the legislature. Minor works projects are intended to be one-time expenditures that do not require future state resources to complete.

NEW SECTION. Sec. 906. (1) The governor, through the office of financial management, may authorize a transfer of appropriation authority provided for a capital project that is in excess of the amount required for the completion of such project to another capital project for which the appropriation is insufficient. No such transfer may be used to expand the capacity of any facility beyond that intended by the legislature in making the appropriation. Such transfers may be effected only between capital appropriations to a specific department, commission, agency, or institution of higher education and only between capital projects that are funded from the same fund or account. No transfers may occur between projects to local government agencies except where the grants are provided within a single omnibus appropriation and where such transfers are specifically authorized by the implementing statutes that govern the grants.

(2) For purposes of this section, the governor may find that an amount is in excess of the amount required for the completion of a project only if: (a) The project as defined in the notes to the budget document is substantially complete and there are funds remaining; or (b) bids have been let on a project and it appears to a substantial certainty that the project as defined in the notes to the budget document can be completed within the biennium for less than the amount appropriated in this act.

(3) For the purposes of this section, the intent is that each project be defined as proposed to the legislature in the governor's budget document, unless it clearly appears from the legislative history that the legislature intended to define the scope of a project in a different way.

(4) Transfers of funds to an agency's infrastructure savings appropriation are subject to review and approval by the office of financial management. Expenditures from an infrastructure savings appropriation are limited to projects that have a primary purpose to correct infrastructure deficiencies or conditions

that: (a) Adversely affect the ability to utilize the infrastructure for its current programmatic use; (b) reduce the life expectancy of the infrastructure; or (c) increase the operating costs of the infrastructure for its current programmatic use. Eligible infrastructure projects may include structures and surface improvements, site amenities, utility systems outside building footprints and natural environmental changes or requirements as part of an environmental regulation, a declaration of emergency for an infrastructure issue in conformance with RCW 43.88.250, or infrastructure planning as part of a facility master plan.

(5) A report of any transfer effected under this section, except emergency projects or any transfer under \$250,000, shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management at least thirty days before the date the transfer is effected. The office of financial management shall report all emergency or smaller transfers within thirty days from the date of transfer.

NEW SECTION. Sec. 907. (1) It is expected that projects be ready to proceed in a timely manner depending on the type or phase of the project or program that is the subject of the appropriation in this act. Except for major projects that customarily may take more than two biennia to complete from predesign to the end of construction, or large infrastructure grant or loan programs supporting projects that often take more than two biennia to complete, the legislature generally does not intend to reappropriate funds more than once, particularly for smaller grant programs, local/community projects, and minor works.

(2) Agencies shall expedite the expenditure of reappropriations and appropriations in this act in order to: (a) Rehabilitate infrastructure resources; (b) accelerate environmental rehabilitation and restoration projects for the improvement of the state's natural environment; (c) reduce additional costs associated with acquisition and construction inflationary pressures; and (d) provide additional employment opportunities associated with capital expenditures.

(3) To the extent feasible, agencies are directed to accelerate expenditure rates at their current level of permanent employees and shall use contracted design and construction services wherever necessary to meet the goals of this section.

(4) The office of financial management shall report the following to the appropriate fiscal committees of the legislature by January 30, 2007: (a) A listing of reappropriations in the governor's 2007-2009 capital budget recommendation that will be reappropriated more than once and have ten percent or more of the original appropriation unexpended; and (b) an explanation of why the appropriation remains unexpended.

NEW SECTION. Sec. 908. The legislature finds that the state's public four-year institutions and the higher education coordinating board have made substantial progress in developing a process to create a single prioritized list of capital project requests as required under RCW 28B.76.220. The legislature also recognizes that continuing work by the institutions and the board is needed to refine the methodology for determining the ranking of project requests, and that this work will benefit from additional legislative guidance. Therefore, the higher education coordinating board and the public four-year institutions, in developing

and submitting the single prioritized project list of capital project requests under RCW 28B.76.220, shall use the following additional guidelines:

(1) Representatives of the board shall participate in the process of scoring projects using the criteria in the board's biennial budget guidelines. Representatives of the board shall also review the preliminary project list to verify the scoring and ranking of projects. As required under RCW 28B.76.210, institutions must submit the preliminary project list to the board by August 1st of each even-numbered year to enable this review. Any disagreements over project scorings or rankings shall be resolved as provided under RCW 28B.76.220(4).

(2) The board's biennial budget guidelines and the prioritization process shall place a greater emphasis on early critical review of project proposals at the pre-design phase, rather than deferring critical review and prioritization to the design or construction phases of a project.

(3) When projects are aggregated into single line-item requests, each project must meet the definition of minor works according to the capital budget instructions issued by the office of financial management. All major projects must be listed and ranked as individual line-item requests.

(4) The scoring and ranking of projects shall not be based on assigning an equal number of overall points to each public four-year institution, but shall reflect an assignment of points to individual projects based on the priorities and criteria in this section and in the board's biennial budget guidelines.

(5) Projects shall not be ranked on the basis of a project funding source.

(6) In consultation with the appropriate fiscal and policy committees of the legislature, the board shall identify statewide priorities for higher education capital investments and incorporate those priorities into its biennial budget guidelines. The statewide priorities shall address the need for higher education capital projects to:

(a) Implement a specific legislatively authorized program or planning priority;

(b) Reduce the backlog of deferred building or system preservation, renewal, or replacement;

(c) Provide additional capacity or adaptation of space for high demand instructional or research programs;

(d) Provide additional instructional program capacity for under-served geographic regions or populations; and

(e) Reflect institutional planning priorities and areas of emphasis.

(7) The board's biennial budget guidelines shall include a quantitative method for scoring projects on the identified priorities. The quantitative method shall include use of the facility condition index developed by the joint legislative audit and review committee for assessing building or system condition, and use of the board's space utilization and allocation standards for assessing the need for additional capacity.

***NEW SECTION. Sec. 909. ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS.** The following agencies may enter into financial contracts, paid from any funds of an agency, appropriated or nonappropriated, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. When securing properties under this section, agencies shall use the most economical financial contract option available,

including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements or financial contracts using certificates of participation. Expenditures made by an agency for one of the indicated purposes before the issue date of the authorized financial contract and any certificates of participation therein are intended to be reimbursed from proceeds of the financial contract and any certificates of participation therein to the extent provided in the agency's financing plan approved by the state finance committee.

State agencies may enter into agreements with the department of general administration and the state treasurer's office to develop requests to the legislature for acquisition of properties and facilities through financial contracts. The agreements may include charges for services rendered.

(1) Department of general administration:

(a) Enter into a financing contract for up to \$12,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct the fifth and final phase of the roof membrane replacement at the east plaza parking structure as well as safety improvements to the parking garage below the plaza.

(b) Enter into a financing contract for up to \$6,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the fourth phase of the office building-2 rehabilitation that will renew failing building systems, correct code deficiencies, and improve access.

(c) Enter into a financing contract for up to \$13,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the rehabilitation of the Cherberg building.

(2) Liquor control board: Enter into a financing contract for up to \$17,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an extension to the liquor control board's distribution center to meet liquor sales growth through 2018.

(3) Department of corrections:

(a) Enter into a financing contract for up to \$400,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a waste transfer station and purchase a garbage truck at the McNeil Island corrections center.

(b) Enter into a financing contract for up to \$4,588,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a transportation services warehouse and offices for correctional industries.

(c) Enter into a financing contract for up to \$4,536,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct additions to the food factory and warehouses at the Airway Heights corrections center for correctional industries.

(4) Parks and recreation commission: Enter into a financing contract in an amount not to exceed \$4,800,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop Cama Beach state park.

(5) Community and technical colleges:

(a) Enter into a financing contract on behalf of Bellevue Community College for up to \$20,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase the North Center building.

(b) Enter into a financing contract on behalf of Clark College for up to \$9,100,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a parking structure.

(c) Enter into a financing contract on behalf of Clover Park Technical College for up to \$14,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a student center.

(d) Enter into a financing contract on behalf of Columbia Basin College for up to \$1,500,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to renovate the Hawk Union building.

(e) Enter into a financing contract on behalf of Edmonds Community College for up to \$4,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a black box theater as a part of the Instructional Lab building.

(f) Enter into a financing contract on behalf of Green River Community College for up to \$7,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase Kent Station higher education center.

(g) Enter into a financing contract on behalf of Olympic College for up to \$3,600,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an addition to the student center bookstore.

(h) Enter into a financing contract on behalf of Shoreline Community College for up to \$15,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a student union building.

(i) Enter into a financing contract on behalf of Skagit Valley Community College for up to \$3,200,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to renovate existing space into a new student center.

(j) Enter into a financing contract on behalf of Walla Walla Community College for up to \$2,175,100 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase land and construct a building for the enology program.

(k) Enter into a financing contract on behalf of Walla Walla Community College for up to \$640,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an addition to the health sciences building at the Clarkston center.

(l) Enter into a financing contract on behalf of Seattle Central Community College for up to \$3,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a math and science building.

(m) Enter into a financing contract on behalf of Pierce College/Puyallup for up to \$8,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a student gym and fitness center.

(n) Enter into a financing contract on behalf of Pierce College/Ft. Steilacoom for up to \$5,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an addition to the college health and wellness center.

(o) Enter into a financing contract on behalf of Cascadia Community College in an amount not to exceed \$7,800,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct the south campus access at the Bothell campus. In identifying the revenue sources to fund the financing contract, the state board for community and technical colleges shall consider parking fees at the Bothell campus and contributions from local governments near the Bothell campus.

(p) The projects in (a), (f), (k), (m), and (n) of this subsection are reauthorizations of projects originally authorized in the 2003-2005 biennium. If the college enters into a financing contract before the effective date of this section, then the appropriate reauthorization contained in this section is null and void.

(6) Washington State University: Enter into a financing contract for up to \$11,650,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a bioproducts facility in the Tri-Cities.

(7) University of Washington: Enter into a financing contract in an amount not to exceed \$7,800,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct the south campus access at the Bothell campus. In identifying the revenue sources to fund the financing contract, the university shall consider the sale of property at Wellington Hills, parking fees at the Bothell campus, and contributions from local governments near the Bothell campus.

*Sec. 909 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 910. FOR THE ARTS COMMISSION—ART WORK ALLOWANCE POOLING. (1) One-half of one percent of moneys appropriated in this act for original construction of school plant facilities is provided solely for the purposes of RCW 28A.335.210. The Washington state arts commission may combine the proceeds from individual projects in order to fund larger works of art or mobile art displays in consultation with the superintendent of public instruction and representatives of school district boards.

(2) One-half of one percent of moneys appropriated in this act for original construction or any major renovation or remodel work exceeding two hundred thousand dollars by colleges or universities is provided solely for the purposes of RCW 28B.10.027. The Washington state arts commission may combine the proceeds from individual projects in order to fund larger works of art or mobile art displays in consultation with the board of regents or trustees.

(3) One-half of one percent of moneys appropriated in this act for original construction of any public building by a state agency as defined in RCW 43.17.020 is provided solely for the purposes of RCW 43.17.200. The Washington state arts commission may combine the proceeds from individual projects in order to fund larger works of art or mobile art displays in consultation with the state agency.

(4) At least eighty-five percent of the moneys spent by the Washington state arts commission during the 2005-2007 biennium for the purposes of RCW 28A.335.210, 28B.10.027, and 43.17.200 must be expended solely for direct acquisition of works of art. The commission may use up to \$100,000 of this amount to contract for service to conserve or maintain existing pieces in the state art collection pursuant to chapter . . . (House Bill No. 2188 (funding the conservation of the state art collection)), Laws of 2005.

NEW SECTION. Sec. 911. The amounts shown under the headings "Prior Biennia," "Future Biennia," and "Total" in this act are for informational purposes only and do not constitute legislative approval of these amounts. "Prior biennia" typically refers to the immediate prior biennium for reappropriations, but may refer to multiple biennia in the case of specific projects. A "future biennia" amount is an estimate of what may be appropriated for the project or program in the 2007-09 biennium and the following four biennia; an amount of zero does

not necessarily constitute legislative intent to not provide funding for the project or program in the future.

NEW SECTION. Sec. 912. "Reappropriations" in this act are appropriations and, unless the context clearly provides otherwise, are subject to the relevant conditions and limitations applicable to appropriations. Reappropriations shall be limited to the unexpended balances remaining on June 30, 2005, from the 2003-2005 biennial appropriations for each project.

NEW SECTION. Sec. 913. To carry out the provisions of this act, the governor may assign responsibility for predesign, design, construction, and other related activities to any appropriate agency.

NEW SECTION. Sec. 914. If any federal moneys appropriated by this act for capital projects are not received by the state, the department or agency to which the moneys were appropriated may replace the federal moneys with funds available from private or local sources. No replacement may occur under this section without the prior approval of the director of financial management in consultation with the senate ways and means committee and the house of representatives capital budget committee.

NEW SECTION. Sec. 915. (1) Unless otherwise stated, for all appropriations under this act that require a match of nonstate money or in-kind contributions, the following requirement, consistent with RCW 43.88.150, shall apply: Expenditures of state money shall be timed so that the state share of project expenditures never exceeds the intended state share of total project costs.

(2) Provision of the full amount of required matching funds is not required to permit the expenditure of capital budget appropriations for phased projects if a proportional amount of the required matching funds is provided for each distinct, identifiable phase of the project.

NEW SECTION. Sec. 916. Any capital improvements or capital projects involving construction or major expansion of a state office facility, including, but not limited to, district headquarters, detachment offices, and off-campus faculty offices, must be reviewed by the department of general administration for possible consolidation, colocation, and compliance with state office standards before allotment of funds. The intent of the requirement imposed by this section is to eliminate duplication and reduce total office space requirements where feasible, while ensuring proper service to the public.

NEW SECTION. Sec. 917. The military department shall file quarterly progress reports in addition to the annual project progress reporting requirement of RCW 43.88.160(3). These reports must contain local, state, and federal funding reconciliation and balance sheets for all appropriated readiness center projects and detail any federal intentions on future readiness centers and other facilities.

NEW SECTION. Sec. 918. NONTAXABLE AND TAXABLE BOND PROCEEDS. Portions of the appropriation authority granted by this act from the state building construction account, or any other account receiving bond proceeds, may be transferred to the state taxable building construction account as deemed necessary by the state finance committee to comply with the federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds. The state treasurer shall submit written notification to the

director of financial management if it is determined that a shift of appropriation authority from the state building construction account, or any other account receiving bond proceeds, to the state taxable building construction account is necessary.

NEW SECTION. Sec. 919. The office of financial management, in consultation with the department of general administration, shall identify capital projects that may benefit from an energy analysis to determine whether there are alternate, more economical, and energy efficient means of completing the work. The office of financial management shall hold appropriations in allotment reserve on the following types of capital projects until this analysis can be completed: Heating, ventilation, and air conditioning modifications, chiller plants, steam plants, boilers, chilled water or steam lines, building control systems, lighting improvements, or other major energy using systems that may warrant additional analysis. Agencies receiving appropriations for such projects are encouraged to utilize energy performance contracts or alternative financing for equipment in lieu of state appropriated funds. The office of financial management may transfer funds remaining in allotment reserve to infrastructure savings projects within the agency that has realized savings from energy efficiency alternatives.

Sec. 920. RCW 43.135.045 and 2003 1st sp.s. c 25 s 920 are each amended to read as follows:

(1) The emergency reserve fund is established in the state treasury. During each fiscal year, the state treasurer shall deposit in the emergency reserve fund all general fund—state revenues in excess of the state expenditure limit for that fiscal year. Deposits shall be made at the end of each fiscal quarter based on projections of state revenues and the state expenditure limit. The treasurer shall make transfers between these accounts as necessary to reconcile actual annual revenues and the expenditure limit for fiscal year 2000 and thereafter.

(2) The legislature may appropriate moneys from the emergency reserve fund only with approval of at least two-thirds of the members of each house of the legislature, and then only if the appropriation does not cause total expenditures to exceed the state expenditure limit under this chapter.

(3) The emergency reserve fund balance shall not exceed five percent of annual general fund—state revenues as projected by the official state revenue forecast. Any balance in excess of five percent shall be transferred on a quarterly basis by the state treasurer as follows: Seventy-five percent to the student achievement fund hereby created in the state treasury and twenty-five percent to the general fund balance. The treasurer shall make transfers between these accounts as necessary to reconcile actual annual revenues for fiscal year 2000 and thereafter. When per-student state funding for the maintenance and operation of K-12 education meets a level of no less than ninety percent of the national average of total funding from all sources per student as determined by the most recent published data from the national center for education statistics of the United States department of education, as calculated by the office of financial management, further deposits to the student achievement fund shall be required only to the extent necessary to maintain the ninety-percent level. Remaining funds are part of the general fund balance and these funds are subject to the expenditure limits of this chapter.

(4) The education construction fund is hereby created in the state treasury.

(a) Funds may be appropriated from the education construction fund exclusively for common school construction or higher education construction. During the fiscal years beginning July 1, 2005, and ending June 30, 2007, funds may also be used for higher education facilities preservation and maintenance.

(b) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection shall result in an adjustment to the state expenditure limit only for the fiscal period for which the appropriation is made and shall not affect any subsequent fiscal period.

(5) Funds from the student achievement fund shall be appropriated to the superintendent of public instruction strictly for distribution to school districts to meet the provisions set out in the student achievement act. Allocations shall be made on an equal per full-time equivalent student basis to each school district.

(6) Earnings of the emergency reserve fund under RCW 43.84.092(4)(a) shall be transferred quarterly to the multimodal transportation account, except for those earnings that are in excess of thirty-five million dollars each fiscal year. Within thirty days following any fiscal year in which earnings transferred to the multimodal transportation account under this subsection did not total thirty-five million dollars, the state treasurer shall transfer from the emergency reserve fund an amount necessary to bring the total deposited in the multimodal transportation account under this subsection to thirty-five million dollars. The revenues to the multimodal transportation account reflected in this subsection provide ongoing support for the transportation programs of the state. However, it is the intent of the legislature that any new long-term financial support that may be subsequently provided for transportation programs will be used to replace and supplant the revenues reflected in this subsection, thereby allowing those revenues to be returned to the purposes to which they were previously dedicated. No transfers from the emergency reserve fund to the multimodal fund shall be made during the 2003-05 fiscal biennium.

Sec. 921. RCW 43.88.032 and 1997 c 96 s 5 are each amended to read as follows:

(1) Normal maintenance costs, except for funds appropriated for facility preservation of state institutions of higher education, shall be programmed in the operating budget rather than in the capital budget.

(2) All debt-financed pass-through money to local governments shall be programmed and separately identified in the budget document.

Sec. 922. RCW 28B.50.360 and 2004 c 277 s 910 are each amended to read as follows:

Within thirty-five days from the date of start of each quarter all collected building fees of each such community and technical college shall be paid into the state treasury, and shall be credited as follows:

(1) On or before June 30th of each year the college board if issuing bonds payable out of building fees shall certify to the state treasurer the amounts required in the ensuing twelve-month period to pay and secure the payment of the principal of and interest on such bonds. The state treasurer shall thereupon deposit the amounts so certified in the community and technical college capital

projects account. Such amounts of the funds deposited in the community and technical college capital projects account as are necessary to pay and secure the payment of the principal of and interest on the building bonds issued by the college board as authorized by this chapter shall be exclusively devoted to that purpose. If in any twelve-month period it shall appear that the amount certified by the college board is insufficient to pay and secure the payment of the principal of and interest on the outstanding building bonds, the state treasurer shall notify the college board and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal and interest on all such bonds then outstanding shall be fully met at all times.

(2) The community and technical college capital projects account is hereby created in the state treasury. The sums deposited in the capital projects account shall be appropriated and expended exclusively to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the state board for community and technical colleges in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto, ~~((and, during the 2003-05 biennium,))~~ engineering and architectural services provided by the department of general administration, and for the payment of principal of and interest on any bonds issued for such purposes.

****NEW SECTION. Sec. 923. The department of general administration shall not sell or otherwise dispose of the Tacoma Rhodes building without legislative approval. The department shall submit a business plan for the building, to include an assessment of whether this building is surplus to the state's needs and whether other state agency tenants might be housed in the building, by December 1, 2005, to the appropriate committees of the legislature.***

*Sec. 923 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 924. In accordance with the recommendation of the joint legislative audit and review committee report "Performance Audit of Capital Budget Processes," the office of financial management shall develop a plan, in consultation with legislative fiscal committees, to address weaknesses identified in that report in the oversight of facility projects. The report shall address, but not be limited to:

- (1) Aligning resources to program workload;
- (2) Identifying and institutionalizing best practices;
- (3) Creating easily accessible and reliable information systems; and
- (4) Improving the review and evaluation of projects at the predesign stage prior to the authorization of design and construction.

The office of financial management shall report on its plan to the governor and the senate committee on ways and means and house of representatives capital budget committee no later than December 1, 2005.

Sec. 925. RCW 43.155.050 and 2001 c 131 s 2 are each amended to read as follows:

The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the

proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. For the 2005-2007 biennium, moneys in the account may be used for grants for projects identified in section 138 of this act.

Sec. 926. RCW 70.105D.070 and 2003 1st sp.s. c 25 s 933 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more

expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

(xii) Development and demonstration of alternative management technologies designed to carry out the top two hazardous waste management priorities of RCW 70.105.150.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority: (i) Remedial actions; (ii) hazardous waste plans and programs under chapter 70.105 RCW; (iii) solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW; (iv) funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and (v) cleanup and disposal of hazardous substances from abandoned or derelict vessels that pose a threat to human health or the environment. For purposes of this subsection (3)(a)(v), "abandoned or derelict vessels" means vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel. Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW. During the 1999-2001 fiscal biennium, moneys in the account may also be used for the following activities: Conducting a study of whether dioxins occur in fertilizers, soil amendments, and soils; reviewing applications for registration of fertilizers; and conducting a study of plant uptake of metals. During the ~~((2003-05))~~ 2005-2007 fiscal biennium, the legislature may transfer from the local toxics control account to the state toxics control account such amounts as specified in the omnibus ~~((operating))~~ capital budget bill ~~((for methamphetamine lab cleanup))~~. During the 2005-2007 fiscal biennium, moneys in the account may also be used for grants to local governments to retrofit public sector diesel equipment and for storm water planning and implementation activities.

(b) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe drinking water act for public water systems. The department of health shall reimburse the account from fees assessed under RCW 70.119A.115 by June 30, 1995.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and

hazardous waste management priorities. However, during the 1999-2001 fiscal biennium, funding may not be granted to entities engaged in lobbying activities, and applicants may not be awarded grants if their cumulative grant awards under this section exceed two hundred thousand dollars. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation.

(7) The department shall adopt rules for grant or loan issuance and performance.

(8) During the 2005-2007 fiscal biennium, the legislature may transfer from the state toxics control account to the water quality account such amounts as reflect the excess fund balance of the fund.

**NEW SECTION. Sec. 927. FOR THE STATE TREASURER—
TRANSFERS**

Local Toxics Control Account: For transfer
to the state toxics control account. \$13,900,000

NEW SECTION. Sec. 928. (1) A study committee on outdoor recreation is established. The study committee shall consist of four members, as follows:

- (a) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives; and
- (b) One member from each of the two largest caucuses of the senate, appointed by the president of the senate.

(2) The study committee members shall, by an affirmative vote of at least three members, select a chair from among its membership.

(3) The study committee shall consult with individuals from the public and private sectors and other interested parties, as may be appropriate, for technical advice and assistance and may ask such individuals to establish advisory committees or work groups that report to the study committee. Those with whom the study committee must consult include, but are not limited to, the following:

- (a) Representatives from state agencies;
- (b) Representatives from local governments;
- (c) Representatives from recreation organizations;
- (d) Representatives from agriculture;
- (e) Representatives from environmental organizations; and
- (f) Representatives from citizens' organizations.

(4) The study committee shall:

- (a) Review local government responses to accommodating population growth and the resulting recreational facility needs;
- (b) Study infrastructure funding issues pertaining to recreational facilities and examine methods by which local governments can reduce or eliminate related funding shortfalls;
- (c) Compile and review information about publicly owned properties that may be suitable for use as recreational facilities;

(d) Compile an inventory of youth athletic fields and facilities purchased with revenues connected to major league sports stadiums, and recommend possible future funding options connected to major league sports; and

(e) Make legislative findings and recommendations related to recreational facility and funding needs.

(5) The study committee shall use staff from the house of representatives office of program research and senate committee services, in consultation with the department of community, trade, and economic development and the interagency committee for outdoor recreation.

(6) The study committee shall report its findings and recommendations to the appropriate committees of the house of representatives and the senate by January 1, 2006.

(7) The study committee expires January 1, 2006.

NEW SECTION, Sec. 929. To provide additional financial assistance and relief to irrigation districts and farmers during the current drought, loan principal and interest payments due to the department of ecology from previous biennia loans and loans in the 2005-2007 biennium for drought assistance or agricultural water supply projects may be deferred for the 2005-2007 biennium. Deferrals are intended only for loan recipients that involve a significant number of farmers who are temporarily leasing or not using their water rights for the benefit of the drought response. The deferrals shall apply to loans from the state drought preparedness account, the state emergency water projects revolving account, and state and local improvement revolving account (water supply facilities). Such loan repayments will resume consistent with the original loan agreement at the beginning of the 2007-2009 biennium.

NEW SECTION, Sec. 930. (1) The house of representatives capital budget committee, with staff support provided by the office of program research, shall research and develop recommendations and findings comparing the stewardship costs to properly manage public lands compared to private lands and the fiscal impacts on counties of purchasing additional public lands under chapter 79A.15 RCW. The capital budget committee shall work with the interagency committee for outdoor recreation, the department of fish and wildlife, the department of natural resources, and counties to obtain necessary information to complete the report.

(a) The private versus public stewardship comparison component of the report shall include, but not be limited to, weed control, diking and drainage, fencing, signage, and other land management activities.

(b) The county fiscal impact component of the report shall include, but not be limited to, a financial analysis determining the difference by county of assessing property taxes on lands acquired under chapter 79A.15 RCW based on one hundred percent of a property's true and fair value compared to assessing property as open space under chapter 84.34 RCW. The analysis shall also compare the fiscal impacts of using these different property tax rates by county for existing game lands held by the department of fish and wildlife and natural areas managed by the department of natural resources.

(2) The capital budget committee shall prepare the report by December 1, 2005.

***NEW SECTION. Sec. 931.** *The office of financial management shall work with the department of social and health services and legislative fiscal committee staff, with data provided by the caseload forecast council and the updated juvenile rehabilitation master plan, to determine at what point closure or consolidation of juvenile rehabilitation facilities will be necessary based on declining population, and to develop a strategic plan for potential closure or consolidation with other department of social and health services facilities. The strategic plan shall include, but not be limited to, recommendations for operating and capital budget decisions, including capital investments needed to facilitate closure or consolidation and provide the necessary range of services in the juvenile rehabilitation system, such as acute mental health care and vocational education, if a facility is closed. In developing the plan, the appropriateness of the location of facilities, both in terms of community impacts and the value of the location in program function, should be considered as well as the capital, opportunity, and operational costs of consolidated or alternative facilities. The office of financial management shall report to the fiscal committees of the legislature not later than September 1, 2006.*

*Sec. 931 was vetoed. See message at end of chapter.

***NEW SECTION. Sec. 932.** *The department of corrections shall report to the office of financial management and the fiscal committees of the legislature not later than September 1, 2006, on the feasibility and cost of closing the McNeil Island corrections center (MICC). This report may utilize information from the department's updated master plan, and shall include, but not be limited to:*

(1) *Current and projected future annual operating costs for the MICC on a total and per capita basis, with comparisons to other department facilities of similar security level and programming;*

(2) *Current and projected future annual level of subsidy provided by MICC operations to the department of social and health services facilities on McNeil Island that would have to be funded separately if MICC were to close;*

(3) *Current and projected future annual level of subsidy provided by MICC correctional industries and/or operations to other department facilities that might have to be funded separately if MICC were to close;*

(4) *Projected costs of mothballing the facility if it were closed;*

(5) *A project list and estimated cost of capital improvements that would need to be funded over the next ten years if MICC were to remain open;*

(6) *Information on the custody, housing, and programmatic needs of the offenders housed at MICC; and*

(7) *Estimates of costs to construct additional facilities to house the offenders removed from MICC and/or recommendations for placement at suitable existing facilities.*

*Sec. 932 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 933. *The University of Washington shall examine various models for the ongoing management of capital facilities investments used by other organizations, including other higher education institutions. These models should reflect the various interrelated aspects of facilities management and investment including operations and maintenance, minor capital projects, and major projects to renew or expand existing facilities. The models should*

also evaluate the respective funding responsibilities of the university and other interested parties, and the respective roles of state operating accounts, state capital accounts, local tuition and building fee accounts, and external funds in the management of such capital facilities. The university should assess these models with respect to the strengths and weaknesses of systemically addressing the long-term management and investment needs of the facilities, and submit a report of these findings by January 1, 2006, to the governor, the house of representatives capital budget committee, and the senate ways and means committee.

NEW SECTION. Sec. 934. (1) The state treasurer shall conduct an evaluation of Internal Revenue Service revenue ruling 63-20 relating to bond financing contracts for capital construction projects supported by state agency financing contracts as authorized in chapter 39.94 RCW.

(2) The evaluation shall include, but is not limited to:

(a) A description of 63-20 bond financing processes including the differences with the various financing contracts subject to review and approval by the state finance committee;

(b) A comparison of the 63-20 bond financing structure with other financing structures for construction of capital projects that are for either public or private use;

(c) A comparison of 63-20 alternative financing with debt authorized in Article VIII of the state Constitution;

(d) An inventory of capital projects undertaken by state agencies, including higher education institutions, local governments, and other subdivisions of the state that have used 63-20 alternative financing since January 1, 2000;

(e) An analysis of the benefits and the costs of the 63-20 alternative financing structures to the state; the costs may include, but are not limited to, the impact on state lease rates, borrowing rates, ongoing fees, building maintenance costs, and operating costs; and

(f) An evaluation of potential effects of use of 63-20 bond financing upon the overall administration of state obligations in the municipal securities market.

(3) The state treasurer shall assemble an advisory committee to assist in the conduct of the evaluation. The advisory committee shall include two members of each house of the legislature, including one from each major caucus appointed by the presiding officer, a representative of the office of financial management, and one person appointed by the governor.

(4) Based on the evaluation, the state treasurer shall make recommendations to the governor and the legislature on the use of 63-20 alternative financing structures. The state treasurer shall report to the governor and the fiscal committees of the legislature by December 1, 2005.

NEW SECTION. Sec. 935. The department of fish and wildlife shall submit a plan to the appropriate committees of the legislature and to the office of financial management for the disposal of the underused properties near Port of Olympia land. The report shall identify efficiencies that replace the need for space in the old buildings by using printing, mailing, and warehousing facilities available through other state agencies. The reports shall be submitted by December 1, 2005.

SUPPLEMENTAL PROVISIONS

Sec. 936. 2003 1st sp.s. c 26 s 115 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Public Works Trust Fund (04-4-001)

The appropriation in this section is subject to the following conditions and limitations: Expenditures of the appropriation shall comply with chapter 43.155 RCW.

Appropriation:

Public Works Assistance Account—State	(\$261,200,000)
	<u>\$416,200,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,319,499,999
TOTAL	<u>(\$1,580,699,999)</u>
	<u>\$1,735,699,999</u>

Sec. 937. 2003 1st sp.s. c 26 s 131 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water SRF - Authorization to Use Loan Repayments (04-4-010)

The appropriation in this section is subject to the following conditions and limitations: Expenditures of the appropriation shall comply with RCW 70.119A.170.

Appropriation:

(Drinking Water Assistance Account—State	\$11,200,000)
<u>Drinking Water Assistance Repayment</u>	
<u>Account—State</u>	<u>\$15,200,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	<u>(\$11,200,000)</u>
	<u>\$15,200,000</u>

Sec. 938. 2004 c 277 s 201 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water Assistance Account (04-4-002)

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

- (1) Expenditures of the appropriation shall comply with RCW 70.119A.170.
- (2)(a) The state building construction account appropriation is provided solely to provide assistance to counties, cities, and special purpose districts to identify, acquire, and rehabilitate public water systems that have water quality problems or have been allowed to deteriorate to a point where public health is an

issue. Eligibility is confined to applicants that already own at least one group A public water system and that demonstrate a track record of sound drinking water utility management. Funds may be used for: Planning, design, and other preconstruction activities; system acquisition; and capital construction costs.

(b) The state building construction account appropriation must be jointly administered by the department of health, the public works board, and the department of community, trade, and economic development using the drinking water state revolving fund loan program as an administrative model. In order to expedite the use of these funds and minimize administration costs, this appropriation must be administered by guidance, rather than rule. Projects must generally be prioritized using the drinking water state revolving fund loan program criteria. All financing provided through this program must be in the form of grants that must partially cover project costs. The maximum grant to any eligible entity may not exceed twenty-five percent of the funds allocated to this appropriation.

Appropriation:

Drinking Water Assistance Account—State	(\$12,700,000)
	<u>\$8,500,000</u>
<u>Drinking Water Assistance Repayment</u>	
<u>Account—State</u>	<u>\$4,200,000</u>
State Building Construction Account—State	\$4,000,000
Subtotal Appropriation	\$16,700,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$32,400,000
TOTAL	\$49,100,000

Sec. 939. 2003 1st sp.s. c 26 s 124 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Coastal Erosion Grants (01-S-019)

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

(1) The reappropriation in this section is subject to the following conditions and limitations:

(a) Funds are provided for coastal erosion grants in southwest Washington in partnership with other state and federal funds. Grays Harbor county is the lead agency in the administration of the grants.

(b) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

(2) The appropriation in this section is provided for coastal erosion grants in southeast Washington in partnership with other state and federal funds. Grays Harbor county is the lead agency in the administration of the grants.

Reappropriation:

State Building Construction Account—State	\$583,155
---	-----------

Appropriation:

State Building Construction Account—State	((\$750,000))
---	---------------

	<u>\$1,250,000</u>
Prior Biennia (Expenditures)	\$666,845
Future Biennia (Projected Costs)	(((\$0))
	<u>\$1,500,000</u>
TOTAL	(((\$2,000,000))
	<u>\$4,000,000</u>

NEW SECTION. Sec. 940. A new section is added to 2004 c 277 (uncodified) to read as follows:

FOR THE MILITARY DEPARTMENT

Alteration of Building No. 2 - Camp Murray (05-1-001)

Appropriation:

General Fund—Federal	\$140,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,260,000
TOTAL	\$1,400,000

NEW SECTION. Sec. 941. A new section is added to 2004 c 277 (uncodified) to read as follows:

FOR THE MILITARY DEPARTMENT

Courseware Development Support Facility (05-2-002)

Appropriation:

General Fund—Federal	\$138,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,237,000
TOTAL	\$1,375,000

NEW SECTION. Sec. 942. A new section is added to 2004 c 277 (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Jefferson County Public Utility District Grant (05-1-006)

Appropriation:

Parks Renewal and Stewardship Account—Private/Local	\$265,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$265,000

Sec. 943. 2004 c 277 s 110 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Engineering and Architectural Services (04-2-014)

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

- (1) The appropriation in this section shall be used to provide project management services to state agencies as required by RCW 43.19.450 that are essential and mandated activities defined as core services and are included in the engineering and architectural services' responsibilities and task list for general

public works projects of normal complexity. The general public works projects included are all those financed by the state capital budget for the biennium ending June 30, 2005, with individual total project values up to \$20 million.

(2) The department may negotiate agreements with agencies for additional fees to manage projects financed by financial contracts, other alternative financing, projects with a total value greater than \$20 million, or for the nonstate funded portion of projects with mixed funding sources.

(3) The department shall review each community and technical college request and the requests of other client agencies for funding any project over \$2.5 million for inclusion in the 2004 supplemental capital budget and the 2005-07 capital budget to ensure that the amount requested by the agency is appropriate for predesign, design, and construction, depending on the phase of the project being requested. The department shall pay particular attention: (a) That the budgeted amount requested is at an appropriate level for the various components that make up the cost of the project such as project management; and (b) that standard measurements such as cost per square foot are reasonable. The department shall also assist the office of financial management with review of other agency projects as requested.

Appropriation:

Charitable, Educational, Penal, and Reformatory

Institutions Account—State	\$140,000
State Building Construction Account—State	(\$6,996,000)
	<u>\$7,723,000</u>
Thurston County Capital Facilities Account—State	(\$937,000)
	<u>\$210,000</u>

Community and Technical College Capital Projects

Account—State	\$1,513,000
Subtotal Appropriation	\$9,586,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) ~~(\$0)~~

	<u>\$41,308,400</u>
TOTAL	(\$9,586,000)
	<u>\$50,894,400</u>

Sec. 944. 2004 c 277 s 209 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Legislative Building: Rehabilitation and Capital Addition (01-1-008)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation in this section is subject to the conditions and limitations of section 109, chapter 238, Laws of 2002 and section 904, chapter 10, Laws of 2003.

Reappropriation:

Capital Historic District Construction	
Account—State	\$68,450,000
State Building Construction Account—State	\$6,000,000
Subtotal Reappropriation	\$74,450,000

Appropriation:

Thurston County Capital Facilities Account—State	\$4,800,000
<u>State Building Construction Account—State</u>	<u>\$7,100,000</u>
Subtotal Appropriation	\$11,900,000
Prior Biennia (Expenditures)	\$26,031,000
Future Biennia (Projected Costs)	\$0
TOTAL	(\$105,281,000)
	<u>\$112,381,000</u>

Sec. 945. 2003 1st sp.s. c 26 s 240 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF VETERANS AFFAIRS

Retsil: 240 Bed Nursing Facility (02-2-008)

Reappropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$500,000
---	-----------

Appropriation:

General Fund—Federal	\$30,730,700
Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$250,000
State Building Construction Account—State	(\$12,000,000)
	<u>\$13,420,000</u>
Subtotal Appropriation	(\$42,980,700)
	<u>\$44,400,700</u>

Prior Biennia (Expenditures)	(\$2,500,000)
	<u>\$4,000,000</u>

Future Biennia (Projected Costs)	\$0
TOTAL	(\$45,980,700)
	<u>\$48,900,700</u>

Sec. 946. 2004 c 277 s 221 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Water Pollution Control Program (04-4-002)

Appropriation:

Water Pollution Control Revolving Account—State	(\$81,054,333)
	<u>\$102,614,743</u>
Water Pollution Control Revolving Account—Federal	\$44,466,666
Subtotal Appropriation	(\$125,520,999)
	<u>\$147,081,409</u>

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$462,000,000

TOTAL	(\$587,520,999)
	<u>\$609,081,409</u>

NEW SECTION. **Sec. 947.** A new section is added to 2004 c 277 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

State Drought Preparedness (05-4-009)

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

(1) \$8,200,000 of the state taxable building construction account—state appropriation shall be deposited in the state drought preparedness account.

(2) The appropriations in this section are provided solely for response to the statewide drought that was declared pursuant to chapter 43.83B RCW. The department of ecology may provide funding or compensation for purchase or lease of water rights and to public bodies as defined in RCW 43.83B.050 in connection with projects and measures designed to alleviate drought conditions that may affect: Public health and safety; drinking water supplies; agricultural activities; or fish and wildlife survival.

(3) Projects or measures for which funding or compensation will be provided must be connected with a water system, water source, or water body that is receiving, or has been projected to receive, less than seventy-five percent of normal water supply, as the result of natural drought conditions. This reduction in water supply must be such that it is causing, or will cause, undue hardship for the entities or fish or wildlife depending on the water supply. General criteria for guidelines to be established by the department of ecology for distribution of funds must include: A balanced and equitable distribution of the funds among the different sectors affected by drought; a funding process that ensures funds are available for drought impacts that arise both early and later during the course of the drought; and preference for projects that leverage other federal and local funds.

(4) Up to \$1,500,000 of the state drought preparedness account—state appropriation in this section is provided to the Roza irrigation district for the purchase or lease of water rights.

Appropriation:

State Drought Preparedness Account—State	\$8,200,000
State Taxable Building Construction Account—State.	\$8,200,000
Subtotal Appropriation	\$16,400,000
 Prior Biennia (Expenditures)	 \$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$16,400,000

Sec. 948. 2003 1st sp.s. c 26 s 330 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Fort Worden (02-1-003)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely for park preservation and for development of the multipurpose dining and meeting facility.

Reappropriation:

State Building Construction Account—State	(\$1,500,000)
	<u>\$1,910,000</u>

Prior Biennia (Expenditures)	((\$4,569,365))
	<u>\$73,350</u>
Future Biennia (Projected Costs)	\$0
TOTAL	((\$6,069,365))
	<u>\$1,983,350</u>

Sec. 949. 2003 1st sp.s. c 26 s 403 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Region 1 Office - Spokane (04-2-009)

The appropriations in this section ((~~is~~)) are subject to the following conditions and limitations: The appropriations ((~~is~~)) are provided solely for the construction of the eastern region headquarters office complex to be located at Mirabeau Point.

Appropriation:

State Building Construction Account—State	\$3,900,000
<u>State Wildlife Account</u>	<u>\$500,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	((\$3,900,000))
	<u>\$4,400,000</u>

Sec. 950. 2003 1st sp.s. c 26 s 421 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Trust Land Transfer Program (04-2-010)

The state building construction account appropriation in this section is subject to the following conditions and limitations:

(1) The total appropriation is provided to the department solely to transfer from trust status or enter into thirty-year timber harvest restrictive easements/ leases for certain trust lands of state-wide significance deemed appropriate for state park, fish and wildlife habitat, natural area preserve, natural resources conservation area, open space, or recreation purposes.

(2) Property transferred under this section shall be appraised and transferred at fair market value. The value of the timber transferred shall be deposited by the department to the common school construction account in the same manner as timber revenues from other common school trust lands. No deduction shall be made for the resource management cost account under RCW 79.64.040. The value of the land transferred shall be deposited in the natural resources real property replacement account. These funds shall be expended by the department for the exclusive purpose of acquiring commercial real property of equal value to be managed as common school trust land.

(3) Property subject to easement/lease agreements under this section shall be appraised at fair market value both with and without the imposition of the easement/lease. The entire difference in appraised value shall be deposited by the department to the common school construction fund in the same manner as lease revenues from other common school trust lands. No deduction shall be made for the resource management cost account under RCW 79.64.040.

(4) All reasonable costs incurred by the department to implement this section are authorized to be paid out of this appropriation. Authorized costs include the actual cost of appraisals, staff time, environmental reviews, surveys, and other similar costs.

(5) Intergrant exchanges between common school and other trust lands of equal value may occur if the exchange is in the interest of each trust, as determined by the board of natural resources.

(6) Prior to or concurrent with conveyance of these properties, the department, with full cooperation of the receiving agencies, shall execute and record a real property instrument that dedicates the transferred properties to the purposes identified in subsection (1) of this section for a minimum period of thirty years. The department of natural resources, in consultation with the receiving state agencies, shall develop policy to address requests to replace transferred properties subject to the recorded property instrument that are no longer deemed appropriate for the purposes identified in subsection (1) of this section.

(7) The department and receiving agencies shall work in good faith to carry out the intent of this section. However, the department or receiving agencies may remove a property from the transfer list based on new, substantive information, if it is determined that transfer of the property is not in the statewide interest of either the common school trust or the receiving agency.

(8) Except as provided in subsections (12) and (13) of this section, the department shall execute trust land transfers and easements/leases such that, after the deduction of reasonable costs as provided in subsection (4) of this section, eighty percent of the appropriation in this section is deposited in the common school construction fund. To achieve the 80:20 ratio, the department may offset transfers of property with low timber-to-land ratios with easements/leases on other properties.

(9) On June 30, 2005, the state treasurer shall transfer all remaining uncommitted funds from this appropriation to the common school construction fund, except as provided in subsection (13) of this section, and the appropriation in this section shall be reduced by an equivalent amount.

(10) Except as provided in subsection (13) of this section, the appropriation in this section is provided for a list of projects in LEAP capital document No. 2003-17, as developed on June 4, 2003.

(11) The department of natural resources shall manage lands acquired as "Bone river natural area preserve" as a natural resources conservation area under chapter 79.71 RCW.

(12) The department may, after the deduction of reasonable costs as provided in subsection (4) of this section, execute leases for an initial term not to exceed fifty years, for Obstruction Pass, Point Lawrence, and 40 acres on Maury Island. Leases executed under this subsection may be renewed for an additional thirty-year period, under terms and conditions established by the department, including revaluation. Trust land transfer leases under this subsection shall not be subject to the 80:20 ratio of timber value to land value required in subsection (8) of this section. Revenues derived from leases under this subsection shall be deposited in the appropriate account as provided by law.

(13) Up to \$4,500,000 of the appropriation from the state building construction account—state appropriation is provided for the transfer of trust

land known as Harbour Pointe to the city of Mukilteo. Four acres of buildable land shall be dedicated for use of a recreational facility to serve only school-age children. Recreational space shall also be designated as ball fields for the purposes of serving the area youth.

Appropriation:

State Building Construction Account—State	\$55,000,000
Natural Resources Real Property Replacement Account—State.	(\$11,000,000)
	<u>\$15,500,000</u>
Subtotal Appropriation	(\$66,000,000)
	<u>\$70,500,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$250,000,000
TOTAL	(\$316,000,000)
	<u>\$320,500,000</u>

Sec. 951. 2004 c 277 s 262 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Seattle: Training Facility (05-1-854)

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

(1) The appropriation is solely for the design of a ~~((single shop and classroom))~~ training facility and a separate academic/administrative facility to replace ~~((eight))~~ light wood frame structures.

(2) Prior to allotment for design, the state board for community and technical colleges shall submit a predesign document to the office of financial management and legislative fiscal committees identifying and outlining the project or projects, scope, schedule, and preliminary cost estimates for capital projects related to the replacement of the portables.

Appropriation:

Gardner-Evans Higher Education Construction Account—State.	\$722,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$7,342,480
TOTAL	\$8,064,480

Sec. 952. 2004 c 277 s 236 (uncodified) is amended to read as follows:

FOR THE STATE BOARD OF EDUCATION

School Construction Assistance Grants (04-4-001)

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

(1) For state assistance grants for purposes of calculating square foot eligibility, kindergarten student headcount shall not be reduced by fifty percent.

(2) \$2,000,000 from this appropriation is provided for skills centers capital improvements. Skills centers shall submit a budget plan to the state board of education and the appropriate fiscal committees of the legislature for proposed

expenditures and the proposed expenditures shall conform with state board of education rules and procedures for reimbursement of capital items. Funds not expended by June 30, 2005, shall lapse.

(3) \$32,868,105 of this appropriation is provided solely to increase the area cost allowance by \$15.00 per square foot for grades K-12 for fiscal year 2004 and an additional \$4.49 per square foot for grades K-12 for fiscal year 2005.

(4) The appropriation in this section includes the amounts deposited in the common school construction account under section 603 of this act.

(5) \$2,500,000 of this appropriation is provided solely for design and construction of additional space at the new market vocational skills center.

(6) Beginning in their 2005-07 capital budget submittal to the governor, the state board of education, in consultation with the Washington state skills centers, shall develop and submit a prioritized list of capital preservation, equipment with long life-cycles, and space expansion and improvement projects. The list shall be developed based on, but not limited to, the following factors: Projected enrollment growth; local school district participation and financial support; changes in the business and industry needs in the state; and efficiency in program delivery and operations.

Appropriation:

Common School Construction Account—State	(\$402,268,513))
	\$295,218,513
<u>State Building Construction Account—State</u>	<u>\$107,050,000</u>
<u>Subtotal Appropriation</u>	<u>\$402,268,513</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,858,456,614
TOTAL	\$2,260,725,127

Sec. 953. 2004 c 277 s 911 (uncodified) is amended to read as follows:

~~((During the 2003-05 biennium,))~~ The state parks and recreation commission shall ((study the various options regarding the future of Old Man House state park. These alternatives include retention as a state park, roles of volunteer community groups, transfer to the Suquamish tribe, sale as surplus property, or other alternatives. The commission may, if it deems it appropriate after studying the various options, transfer the park to the Suquamish tribe. Any action shall provide for continued public access and use of the site for public recreation, and include a limited waiver of sovereignty by the tribe restricted to the enforceability of the reversion clause pursuant to RCW 79A.05.170)) transfer Old Man House state park to the Suquamish tribe. Any transfer shall provide for continued public access and use of the site for public recreation, and include a limited waiver of sovereignty by the tribe to enforce the reversionary clause pursuant to RCW 79A.05.170.

Sec. 954. 2004 c 277 s 904 (uncodified) is amended to read as follows:

ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS. The following agencies may enter into financial contracts, paid from any funds of an agency, appropriated or nonappropriated, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. When securing properties under this section, agencies shall use the most

economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements or financial contracts using certificates of participation. Expenditures made by an agency for one of the indicated purposes before the issue date of the authorized financial contract and any certificates of participation therein are intended to be reimbursed from proceeds of the financial contract and any certificates of participation therein to the extent provided in the agency's financing plan approved by the state finance committee.

State agencies may enter into agreements with the department of general administration and the state treasurer's office to develop requests to the legislature for acquisition of properties and facilities through financial contracts. The agreements may include charges for services rendered.

(1) Department of general administration: Enter into a financing contract for an amount approved by the office of financial management for costs and financing expenses and required reserves pursuant to chapter 39.94 RCW to lease develop or lease purchase a state office building of 150,000 to 200,000 square feet on state-owned property in Tumwater according to the terms of the agreement with the Port of Olympia when the property was acquired or within the preferred development/leasing areas in Thurston county. The building shall be constructed and financed so that agency occupancy costs will not exceed comparable private market rental rates. The comparable general office space rate shall be calculated based on the three latest Thurston county leases of new space of at least 100,000 rentable square feet adjusted for inflation as determined by the department of general administration. The department of general administration shall coordinate with potential state agency tenants whose current lease expire near the time of occupancy so that buyout of current leases do not add to state expense. The office of financial management shall certify to the state treasurer: (a) The project description and dollar amount; and (b) that all requirements of this subsection (1) have been met.

(2) Enter into, after approval by the office of financial management and the state finance committee and a positive result from the joint legislative audit and review committee leasing model, a long-term lease of up to twenty-five years, or long-term lease with an option to purchase, with the city of Seattle, for up to 250,000 square feet of office space that is being lease developed by the city of Seattle. Agency occupancy costs will not exceed comparable private market rental rates in downtown Seattle. The comparable general office space rate shall be calculated based on lease rates (adjusted for inflation) of the tenants at the time of proposed occupancy as determined by the department of general administration.

(3) Department of veterans affairs: Enter into a financing contract in an amount not to exceed \$1,441,500 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to build and equip a kitchen in existing shell space at the Spokane veterans home and provide space for displaced functions.

(4) Department of corrections:

(a) Enter into a financing contract for up to \$400,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a waste transfer station and purchase a garbage truck at the McNeil Island corrections center.

(b) Enter into a financing contract for up to \$4,588,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a transportation services warehouse and offices for correctional industries.

(c) Enter into a financing contract for up to \$4,536,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct additions to the food factory and warehouses at the Airway Heights corrections center for correctional industries.

(5) Parks and recreation commission: Enter into a financing contract in an amount not to exceed \$4,800,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop Cama Beach state park.

(6) Community and technical colleges:

(a) Enter into a financing contract on behalf of Bellevue Community College for up to \$20,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase North Center campus.

(b) Enter into a financing contract on behalf of Big Bend Community College for up to \$6,500,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an international conference and training center and dining services center building.

(c) Enter into a financing contract on behalf of Clark Community College for up to \$9,839,464 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a bookstore, meeting rooms, student lounge, and study space.

(d) Enter into a financing contract on behalf of Green River Community College for up to \$7,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase Kent Station higher education center.

(e) Enter into a financing contract on behalf of Seattle Central Community College for up to \$1,300,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for land acquisition and development of parking facilities.

(f) Enter into a financing contract on behalf of Seattle Central Community College for up to \$3,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct ~~((an above ground parking garage))~~ a math and science building.

(g) Enter into a financing contract on behalf of South Puget Sound Community College for up to \$660,000 plus financing expenses and reserves pursuant to chapter 39.94 RCW to construct parking and storm water mitigation facilities.

(h) Enter into a financing contract on behalf of Spokane Community College for up to \$725,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase land.

(i) Enter into a financing contract on behalf of Walla Walla Community College for up to \$2,175,100 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase land and construct a building for professional-technical instruction.

(j) Enter into a financing contract on behalf of Walla Walla Community College for up to \$504,400 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase land and buildings at the Clarkston center.

(k) Enter into a financing contract on behalf of Pierce College/Ft. Steilacoom for up to \$5,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an addition to the college health and wellness center.

(l) Enter into a financing contract on behalf of Pierce College/Puyallup for up to \$8,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a student gym and fitness center.

(m) Enter into a financing contract on behalf of Columbia Basin College for up to \$8,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct the medical technology and science education addition to the T-Building renovation and establish the Washington institute of science education (WISE).

NEW SECTION. Sec. 955. Sections 920 and 921 of this act expire June 30, 2007.

NEW SECTION. Sec. 956. Part headings in this act are not any part of the law.

NEW SECTION. Sec. 957. The following acts or parts of acts are each repealed:

- (1) 2003 1st sp.s. c 26 s 603 (uncodified); and
- (2) 2004 c 277 s 302 (uncodified).

NEW SECTION. Sec. 958. 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. 959. 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, except for sections 920 and 921 of this act, which take effect June 30, 2005.

INDEX

PAGE #

CENTRAL WASHINGTON UNIVERSITY	2186
COMMUNITY AND TECHNICAL COLLEGE SYSTEM	2202
COMMUNITY AND TECHNICAL COLLEGE SYSTEM	2256
COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT	2066
COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT	2248
CRIMINAL JUSTICE TRAINING COMMISSION	2094
DEPARTMENT OF AGRICULTURE	2162
DEPARTMENT OF CORRECTIONS	2106
DEPARTMENT OF ECOLOGY	2115, 2252
DEPARTMENT OF FISH AND WILDLIFE	2149, 2149, 2254
DEPARTMENT OF GENERAL ADMINISTRATION	2083
DEPARTMENT OF GENERAL ADMINISTRATION	2250
DEPARTMENT OF HEALTH	2103
DEPARTMENT OF NATURAL RESOURCES	2154
DEPARTMENT OF SOCIAL AND HEALTH SERVICES	2095
DEPARTMENT OF VETERANS AFFAIRS	2105
DEPARTMENT OF VETERANS' AFFAIRS'	2252
EASTERN WASHINGTON STATE HISTORICAL SOCIETY	2202

EASTERN WASHINGTON UNIVERSITY 2182
 EMPLOYMENT SECURITY DEPARTMENT 2114
 HIGHER EDUCATION COORDINATING BOARD 2168
 INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION 2136
 JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE 2065
 MILITARY DEPARTMENT 2091
 MILITARY DEPARTMENT 2250
 OFFICE OF THE SECRETARY OF STATE 2066
 STATE BOARD OF EDUCATION 2163
 STATE BOARD OF EDUCATION 2256
 STATE CONSERVATION COMMISSION 2146
 STATE CONVENTION AND TRADE CENTER 2094
 STATE PARKS AND RECREATION COMMISSION 2128, 2250
 STATE SCHOOL FOR THE BLIND 2167
 SUPERINTENDENT OF PUBLIC INSTRUCTION 2166
 THE EVERGREEN STATE COLLEGE 2190
 UNIVERSITY OF WASHINGTON 2169
 WASHINGTON STATE HISTORICAL SOCIETY 2200
 WASHINGTON STATE PATROL 2162
 WASHINGTON STATE UNIVERSITY 2176
 WESTERN WASHINGTON UNIVERSITY 2195

Passed by the Senate April 24, 2005.

Passed by the House April 22, 2005.

Approved by the Governor May 16, 2005, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 16, 2005.

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

"I am returning, without my approval as to Sections 143(2)(b); 143(2)(c); 160; 163; 219, lines 25 - 31; 425, lines 7-10; 426(1); 427(1); 438; 615(4); 643, lines 4 - 7; 714, lines 4 - 5; 909(5)(o); 909(7); 923; 931; and 932 of Engrossed Senate Bill No. 6094 entitled:

"AN ACT Relating to the capital budget;"

My reasons for vetoing these sections are as follows:

Section 143(2)(b) and (c), page 26, Department of General Administration

Section 143(2)(b) and (c) state that the construction contract award for the Cherberg Building rehabilitation shall be made to the general contractor offering written and oral materials demonstrating the greatest value for attainment of the program objectives considering a number of evaluation criteria including cost, and that the project oversight is delegated to the Senate. These sections amend permanent statutes without reference by not clearly stating the intent to use alternative public works (RCW 39.10) and removing the custody and control of the building from the Department of General Administration as required by RCW 43.19.125. I am vetoing these sections, but I also direct the Department of General Administration to work with the Senate to ensure the project complies with RCW 39.10, that oversight complies with RCW 43.19.125, that the project remains observant of the historical and monumental nature of the building, and that the Senate is fully involved in decisions regarding the design, management and construction during the rehabilitation.

Section 160, page 34, Department of General Administration

This section directs that the state capitol committee consult with a legislative buildings committee in its work on the state capitol campus master plan. I am vetoing this section because it amends permanent statute without reference (RCW 43.34.010) by introducing additional participants and process steps that the state capitol committee must undertake before it can adopt the master plan.

Section 163, page 35, Department of General Administration

This section duplicates funding provided in the operating budget for Capitol Lake environmental preservation and planning. Operating funds are better suited to these activities so I am vetoing this section.

Section 219, page 45, lines 25-31, Department of Social and Health Services

The funds provided in this section are needed to make critical health and life safety improvements such as fire sprinklers in residences at the Fircrest School campus for the developmentally disabled. I am vetoing the conditions and limitations placed on this appropriation that require the Department of Social and Health Services to resolve issues with the food bank tenant at the campus so that these funds are available to make needed safety repairs. However, I direct DSHS to work with the tenant to examine the tenant's concerns.

Section 425, page 115, lines 7-10, Department of Fish and Wildlife

This section provides funding for the improvement of assorted departmental facilities, infrastructure, lands and access sites statewide. The proviso within the section stipulates that none of the funding may be used to construct a new public boat launch access on Lake Tahuyeh in Kitsap County. I am vetoing this section because, as the legal landowner, the department is prevented from lawful development of state-owned resources, which will further limit the expansion of public recreational fishing opportunities. However, I appreciate that Lake Tahuyeh residents may have concerns about the impact of the new facility and ask the department to work with local landowners as they develop and maintain the public access to the lake.

Section 426(1), page 115, Department of Fish and Wildlife

This subsection duplicates language that is identical to the subsequent proviso (2) in the same section.

Section 427(1), page 116, Department of Fish and Wildlife

This subsection duplicates language that is identical to the subsequent proviso (2) in the same section.

Section 438, Page 120, Department of Natural Resources

This section requires the Department of Natural Resources to conduct a study of deep-water geoduck and sea cucumber populations in Hood Canal, utilizing \$650,000 of funding from the Resource Management Cost Account (RMCA). This account receives revenue from two major activities – leases and sale of valuable materials from state-owned aquatic lands and leases and timber sales from state trust lands. I am vetoing this section because the projected fund balance of the aquatics portion of RMCA is insufficient to cover the cost of this study.

Section 615(4), page 137, Higher Education Coordinating Board

Section 615(4) requires the advisory committee on higher education created in E2SB 5441 (Comprehensive Education Study) to serve as a steering committee to direct the Board in the conduct of a higher education needs assessment and siting study for Snohomish, Skagit, and Island counties. Under current statute, the Board has authority to conduct these assessments. I am directing the Board to consult with the advisory committee created in E2SB 5441 so that the advisory committee may consider the Board's findings and recommendations as it considers the higher education needs of the entire state.

Section 643, page 147, lines 4 – 7, Washington State University

This proviso establishes a contingency for the allotment of a reappropriation. This violates provisions of RCW 43.88.110(7) that provides for the continuation of project expenditures into the succeeding biennium when an allotment was approved in the previous biennium. This proviso conditions the allotment and thus is in conflict with the statute.

Section 714, page 172, lines 4-5, Western Washington University

These lines indicate potential large future costs for this project. I am vetoing these two lines to allow for additional discussion about the project's scope.

Section 909(5)(o), page 226, Community and Technical College System

Section 909(5)(o) gives Cascadia Community College the authority to use alternative financing for partial funding of the State Route 522 Access project. I am vetoing this capital project because it is funded in the transportation budget.

Section 909(7), page 227, University of Washington

Section 909(7) gives the University of Washington authority to use alternative financing for partial funding of the State Route 522 Access project. I am vetoing this capital project because it is funded in the transportation budget.

Section 923, page 233, Department of General Administration

Section 923 requires the Department of General Administration to obtain legislative approval before selling the Tacoma Rhodes facility. I am vetoing this proviso because decisions regarding Tacoma Rhodes are within the authority and responsibilities of the Department of General Administration as an executive agency responsible for housing state government and acquiring and disposing of property. This existing authority includes managing and making appropriate decisions on the future of facilities, based on sound business principles.

The proviso also requires the Department of General Administration to submit a business plan to the Legislature concerning whether the facility is surplus to the state's needs and whether other state agency tenants might be housed in the building. General Administration already planned to take these steps as part of its ongoing business analysis of the facility and will share the results of the analysis with the Legislature as those efforts unfold.

Section 931, page 240, Office of Financial Management

This section requires the Office of Financial Management to work with the Department of Social and Health Services and legislative fiscal committee staff to determine at what point closure or consolidation of juvenile rehabilitation facilities will be necessary. I am vetoing this proviso because no funding was provided to the Office of Financial Management to prepare and submit this study.

Section 932, pages 240-241, Department of Corrections

Section 932 requires the Department of Corrections to report to the Office of Financial Management and the fiscal committees of the Legislature on the feasibility and cost of closing the McNeil Island Corrections Center. I am vetoing this proviso because no funding was provided to the Department to prepare and submit this study.

With the exception of sections 143(2)(b); 143(2)(c); 160; 163; 219, lines 25 - 31; 425, lines 7-10; 426(1); 427(1); 438; 615(4); 643, lines 4 - 7; 714, lines 4 - 5 (page 172); 909(5)(o); 909(7); 923; 931; and 932 as specified above, Engrossed Senate Bill No. 6094 is approved."

CHAPTER 489

[House Bill 1066]

LEARNING ASSISTANCE PROGRAM DISTRIBUTION FORMULA

AN ACT Relating to learning assistance program distribution formula; and amending RCW 28A.165.055.

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

Sec. 1. RCW 28A.165.055 and 2004 c 20 s 6 are each amended to read as follows:

Each school district with an approved program is eligible for state funds provided for the learning assistance program. The funds shall be appropriated for the learning assistance program in accordance with the biennial appropriations act. The distribution formula is for school district allocation purposes only. The distribution formula shall be based on ~~((an assessment of students and on))~~ one or more family income factors measuring economic need. ~~((Beginning with the 2005-06 school year, fifty percent of the distribution formula shall be based on an assessment of students and fifty percent shall be based on one or more family income factors measuring economic need.))~~

Passed by the House April 20, 2005.

Passed by the Senate April 23, 2005.

Approved by the Governor May 16, 2005.

Filed in Office of Secretary of State May 16, 2005.

CHAPTER 490

[Engrossed Second Substitute House Bill 1152]

EARLY LEARNING COUNCIL

AN ACT Relating to early learning; amending RCW 28B.135.030, 41.04.385, and 74.13.0903; reenacting and amending RCW 74.15.030; adding a new section to chapter 74.15 RCW; creating new sections; repealing RCW 74.13.090 and 74.13.0901; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that parents are their children's first and most important teachers, caregivers, and decision makers. The legislature also recognizes that many parents are employed or in school and must seek services in their communities to assist with the care and support of their children. Welfare reform requires parents with low incomes to enter the work force while their children are young, increasing parents' need for the support of such resources. In seeking out resources in their communities to provide care and support for their children, parents throughout the state need and deserve to have the best possible information to help inform their choices about the care and education of their children.

The legislature also finds that research on brain development in young children establishes that early experiences are important to children's emotional, social, physical, and cognitive development. Research also shows a clear and compelling connection between the quality of children's early childhood care and education experiences and later success in school and in life.

The legislature intends to build on the efforts of communities across the state to improve the quality of early learning environments available to children and their families, as well as the information available to families relating to those early learning environments. The legislature recognizes that efforts to improve early learning must build upon existing partnerships between the public and private sectors. The experiences and resources of both public and private entities are essential to making meaningful and lasting improvements in the quality of early learning environments across the state. Statewide leadership is needed to guide and support the efforts of the private and public sectors working together to make systemwide improvements in the quality, affordability, and accessibility of early learning opportunities.

The legislature intends to establish an effective oversight body, composed of representation from the public and private sectors, to provide leadership and vision to strengthen the quality of early learning services and programs for all children and families in the state and to ensure that children enter school ready to succeed.

NEW SECTION. Sec. 2. The definitions in this section apply throughout sections 1 through 6 of this act unless the context clearly requires otherwise.

(1) "Early learning programs and services" include the following: Child care; state, private, and nonprofit preschool programs; child care subsidy programs; and training and professional development programs for early learning professionals.

(2) "Council" means the Washington early learning council.

NEW SECTION. Sec. 3. (1) The Washington early learning council is established in the governor's office. The purpose of the council is to provide

vision, leadership, and direction to the improvement, realignment, and expansion of early learning programs and services for children birth to five years of age in order to better meet the early learning needs of children and their families. The goal of the council is to build upon existing efforts and recommend new initiatives, as necessary, to create an adequately financed, high-quality, accessible, and comprehensive early learning system that benefits all young children whose parents choose it.

(2) The council shall develop an early learning plan to improve the organization of early learning programs and services at the state level, and to improve the accessibility and quality of early learning programs and services throughout the state.

(a) By November 15, 2005, the council shall make recommendations to the governor and the appropriate committees of the legislature concerning statewide organization of early learning.

(b) The council shall also make recommendations to the governor and the appropriate committees of the legislature concerning the following:

(i) Identification of current populations being served and potential populations to be served by early learning programs and services;

(ii) The state's role in supporting quality early learning programs and services;

(iii) Appropriate levels and sources of stable and sustainable funding to meet statewide and local need for early learning programs and services, including public-private partnerships;

(iv) Changes in existing early learning programs and services, including the administration of those programs and services, to improve their efficiency, effectiveness, and quality;

(v) Changes in existing early learning programs and services to ensure that the content is aligned with what children need to know and be able to do upon entering school;

(vi) How to maximize available early learning resources to ensure children are receiving continuity of care; and

(vii) Providing for smooth transitions from early learning programs and services to K-12 programs.

(c) As provided in sections 5 and 6 of this act, the council shall focus on quality improvements to licensed child care through the following mechanisms:

(i) A voluntary, quality-based, graduated rating system to provide information to parents on the quality of child care programs and to provide resources and incentives for quality improvements; and

(ii) A tiered-reimbursement system for state-subsidized child care to improve the quality of care for children participating in state-funded care.

(d) The council shall make recommendations to the governor and the appropriate committees of the legislature concerning the regulation of child care, including child care that is exempt from regulation and unlicensed child care that is subject to regulation, in order to ensure the safety, health, quality, and accessibility of child care services throughout the state.

(3) The council shall serve as the advisory committee on early learning to the comprehensive education study steering committee, created in Engrossed Second Substitute Senate Bill No. 5441. The nongovernmental cochair of the council shall serve as the chair of the advisory committee on early learning. The

council shall have input on the recommendations developed by the comprehensive education study steering committee.

(4) The council shall make use of existing reports, research, planning efforts, and programs, including, but not limited to, the following: The federal early head start program, the federal head start program, the state early childhood education and assistance program, the state's essential academic learning requirements and K-3 grade level expectations, the Washington state early learning and development benchmarks, existing tiered-reimbursement initiatives, the state's early childhood comprehensive systems plan, and the work of the child care coordinating committee established pursuant to RCW 74.13.090.

NEW SECTION. Sec. 4. (1) The council shall include representation from public, nonprofit, and for-profit entities, and its membership shall reflect regional, racial, and cultural diversity to ensure representation of the needs of all children and families in the state.

(2) The council shall consist of seventeen members, as follows:

(a) One representative each of the governor's office, the department of social and health services, the department of health, and the state board for community and technical colleges, appointed by the governor;

(b) One representative of the office of superintendent of public instruction, appointed by the superintendent of public instruction;

(c) Two representatives of private business and two representatives of philanthropy, appointed by the governor;

(d) Four individuals who have demonstrated leadership and engagement in the field of early learning, appointed by the governor; and

(e) Two members of the house of representatives appointed by the speaker of the house of representatives, one of whom shall be a member of the majority caucus and one of whom shall be a member of the minority caucus, and two members of the senate appointed by the president of the senate, one of whom shall be a member of the majority caucus and one of whom shall be a member of the minority caucus.

(3) The council shall be cochaired by the representative of the governor's office and a nongovernmental member designated by the governor.

(4) Members of the council shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The governor may employ an executive director, who is exempt from the provisions of chapter 41.06 RCW, and such other staff as is necessary to carry out the purposes of sections 1 through 6 of this act. The governor pursuant to RCW 43.03.040 shall fix the salary of the executive director.

(6) The council shall monitor and measure its progress and regularly report, as appropriate, to the governor and the appropriate committees of the legislature on the progress, findings, and recommendations of the council.

(7) The council shall establish one or more technical advisory committees, as needed. Membership of such advisory committees may include the following: Representatives of any state agency the council deems appropriate, including the higher education coordinating board and the state board for community and technical colleges; family home child care providers, child care center providers, and college or university child care providers; parents; early

childhood development experts; representatives of school districts and teachers involved in the provision of child care and preschool programs; representatives of resource and referral programs; parent education specialists; pediatric or other health professionals; representatives of citizen groups concerned with child care and early learning; representatives of labor organizations; representatives of private business; and representatives of head start and early childhood education assistance program agencies.

NEW SECTION. Sec. 5. (1) The council shall develop a voluntary, quality-based, graduated rating system consisting of levels of quality to be achieved by licensed child care providers serving children and families in the state. The purpose of the rating system is to provide families with vital information about the quality of early learning programs available to them and to increase the quality of early learning programs operating throughout the state. In developing the voluntary rating system, the council shall seek to build upon existing partnerships and initiate new partnerships between the public and private sectors.

(2) In developing the voluntary rating system, the council shall establish a system of tiers as the basis for the rating system's levels of quality. In developing the system of tiers, the council shall take into consideration the following quality criteria:

- (a) Child-to-staff ratios;
- (b) Group size;
- (c) Learning environment, including staff and child interactions;
- (d) Curriculum;
- (e) Parent and family involvement and support;
- (f) Staff qualifications and training;
- (g) Staff professional development;
- (h) Staff compensation;
- (i) Staff stability;
- (j) Accreditation;
- (k) Program evaluation; and
- (l) Program administrative policies and procedures.

(3) In developing the voluntary rating system, the council shall establish quality assurance measures as well as a mechanism for system evaluation.

(4) In developing the voluntary rating system, the council shall make recommendations concerning both initial and subsequent statewide implementation of the rating system, including the following:

- (a) Potential implementing entities;
- (b) Sources of funding for implementation;
- (c) Necessary infrastructure for facilitating and supporting participation in the rating system, including assistance necessary to help providers progress up the tiers; and
- (d) Strategies for raising public awareness of the rating system.

(5) The council shall complete initial development of the voluntary rating system by December 1, 2005, and complete development by December 1, 2006.

(6) The council shall submit the voluntary rating system to the governor and the appropriate fiscal and policy committees of the legislature by January 1, 2007. If no action is taken by the legislature by the end of the 2007 regular

legislative session, the council may begin initial implementation of the voluntary rating system, subject to available funding.

NEW SECTION. Sec. 6. (1) The council shall develop a tiered-reimbursement system that provides higher rates of reimbursement for state-subsidized child care for licensed child care providers that achieve one or more levels of quality above basic licensing requirements in accordance with the voluntary quality-based graduated rating system developed pursuant to section 5 of this act.

(2) In developing the tiered-reimbursement system, the council shall review existing tiered-reimbursement initiatives in the state and integrate those initiatives into the tiered-reimbursement system.

(3) The council shall complete initial development of the tiered-reimbursement system by December 1, 2005, to be implemented in two pilot sites in different geographic regions of the state with demonstrated public-private partnerships. The council shall complete development of the tiered-reimbursement system by December 1, 2006, to be implemented statewide, subject to the availability of amounts appropriated by the legislature for this specific purpose.

NEW SECTION. Sec. 7. A new section is added to chapter 74.15 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department of social and health services shall implement the tiered-reimbursement system developed pursuant to section 6 of this act. Implementation of the tiered-reimbursement system shall initially consist of two pilot sites in different geographic regions of the state with demonstrated public-private partnerships, with statewide implementation to follow.

(2) In implementing the tiered-reimbursement system, consideration shall be given to child care providers who provide staff wage progression.

(3) The department shall begin implementation of the two pilot sites by March 30, 2006.

Sec. 8. RCW 28B.135.030 and 1999 c 375 s 3 are each amended to read as follows:

The higher education coordinating board shall administer the program for four-year institutions of higher education. The state board for community and technical colleges shall administer the program for community and technical colleges. The higher education coordinating board and the state board for community and technical colleges shall have the following powers and duties in administering each program:

(1) To adopt rules necessary to carry out the program;

(2) To establish one or more review committees to assist in the evaluation of proposals for funding. The review committee shall include but not be limited to individuals from the Washington association for the education of young children(~~(, the child care coordinating committee,)~~) and the child care resource and referral network;

(3) To establish each biennium specific guidelines for submitting grant proposals consistent with the overall goals of the program. During the 1999-2001 biennium the guidelines shall be consistent with the following desired outcomes of increasing access to child care for students, addressing the demand

for infant and toddler care, providing affordable child care alternatives, creating more cooperative preschool programs, creating models that can be replicated at other institutions, creating a partnership between university or college administrations and student government, or its equivalent and increasing efficiency and innovation at campus child care centers;

(4) To establish guidelines for an allocation system based on factors that include but are not limited to: The amount of money available in the trust fund; characteristics of the institutions including the size of the faculty and student body; and the number of child care grants received;

(5) To solicit grant proposals and provide information to the institutions of higher education about the program; and

(6) To establish reporting, evaluation, accountability, monitoring, and dissemination requirements for the recipients of the grants.

Sec. 9. RCW 41.04.385 and 2002 c 354 s 236 are each amended to read as follows:

The legislature finds that (1) demographic, economic, and social trends underlie a critical and increasing demand for child care in the state of Washington; (2) working parents and their children benefit when the employees' child care needs have been resolved; (3) the state of Washington should serve as a model employer by creating a supportive atmosphere, to the extent feasible, in which its employees may meet their child care needs; and (4) the state of Washington should encourage the development of partnerships between state agencies, state employees, state employee labor organizations, and private employers to expand the availability of affordable quality child care. The legislature finds further that resolving employee child care concerns not only benefits the employees and their children, but may benefit the employer by reducing absenteeism, increasing employee productivity, improving morale, and enhancing the employer's position in recruiting and retaining employees. Therefore, the legislature declares that it is the policy of the state of Washington to assist state employees by creating a supportive atmosphere in which they may meet their child care needs. Policies and procedures for state agencies to address employee child care needs will be the responsibility of the director of personnel in consultation with ~~((the child care coordinating committee, as provided in RCW 74.13.090, and))~~ state employee representatives.

Sec. 10. RCW 74.13.0903 and 1997 c 58 s 404 are each amended to read as follows:

The office of child care policy is established to operate under the authority of the department of social and health services. The duties and responsibilities of the office include, but are not limited to, the following, within appropriated funds:

(1) ~~((Staff and assist the child care coordinating committee in the implementation of its duties under RCW 74.13.090;~~

~~(2))~~ Work in conjunction with the statewide child care resource and referral network as well as local governments, nonprofit organizations, businesses, and community child care advocates to create local child care resource and referral organizations. These organizations may carry out needs assessments, resource development, provider training, technical assistance, and parent information and training;

~~((3))~~ (2) Actively seek public and private money for distribution as grants to the statewide child care resource and referral network and to existing or potential local child care resource and referral organizations;

~~((4))~~ (3) Adopt rules regarding the application for and distribution of grants to local child care resource and referral organizations. The rules shall, at a minimum, require an applicant to submit a plan for achieving the following objectives:

(a) Provide parents with information about child care resources, including location of services and subsidies;

(b) Carry out child care provider recruitment and training programs, including training under RCW 74.25.040;

(c) Offer support services, such as parent and provider seminars, toy-lending libraries, and substitute banks;

(d) Provide information for businesses regarding child care supply and demand;

(e) Advocate for increased public and private sector resources devoted to child care;

(f) Provide technical assistance to employers regarding employee child care services; and

(g) Serve recipients of temporary assistance for needy families and working parents with incomes at or below household incomes of one hundred seventy-five percent of the federal poverty line;

~~((5))~~ (4) Provide staff support and technical assistance to the statewide child care resource and referral network and local child care resource and referral organizations;

~~((6))~~ (5) Maintain a statewide child care licensing data bank and work with department of social and health services licensors to provide information to local child care resource and referral organizations about licensed child care providers in the state;

~~((7))~~ (6) Through the statewide child care resource and referral network and local resource and referral organizations, compile data about local child care needs and availability for future planning and development;

~~((8))~~ (7) Coordinate with the statewide child care resource and referral network and local child care resource and referral organizations for the provision of training and technical assistance to child care providers; and

~~((9))~~ (8) Collect and assemble information regarding the availability of insurance and of federal and other child care funding to assist state and local agencies, businesses, and other child care providers in offering child care services.

Sec. 11. RCW 74.15.030 and 2000 c 162 s 20 and 2000 c 122 s 40 are each reenacted and amended to read as follows:

The secretary shall have the power and it shall be the secretary's duty:

(1) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages, sex and other characteristics of persons served, variations in the purposes and services offered or size or structure of the agencies to be licensed hereunder, or because of any other factor relevant thereto;

(2) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed.

The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) The character, suitability and competence of an agency and other persons associated with an agency directly responsible for the care and treatment of children, expectant mothers or developmentally disabled persons. In consultation with law enforcement personnel, the secretary shall investigate the conviction record or pending charges and dependency record information under chapter 43.43 RCW of each agency and its staff seeking licensure or relicensure. No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under this chapter. In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children shall be fingerprinted. The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history records check. The fingerprint criminal history records checks will be at the expense of the licensee except that in the case of a foster family home, if this expense would work a hardship on the licensee, the department shall pay the expense. The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record. The secretary shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children, expectant mothers, and developmentally disabled persons. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose;

(c) The number of qualified persons required to render the type of care and treatment for which an agency seeks a license;

(d) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;

(e) The provision of necessary care, including food, clothing, supervision and discipline; physical, mental and social well-being; and educational, recreational and spiritual opportunities for those served;

(f) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW and RCW 74.13.031; and

(g) The maintenance of records pertaining to the admission, progress, health and discharge of persons served;

(3) To investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children, expectant mothers, and developmentally disabled persons prior to authorizing that person to care for children, expectant mothers, and

developmentally disabled persons. However, if a child is placed with a relative under RCW 13.34.065 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment the criminal history background check required by this section need not be completed before placement, but shall be completed as soon as possible after placement;

(4) On reports of alleged child abuse and neglect, to investigate agencies in accordance with chapter 26.44 RCW, including child day-care centers and family day-care homes, to determine whether the alleged abuse or neglect has occurred, and whether child protective services or referral to a law enforcement agency is appropriate;

(5) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the category of care which an agency is authorized to render and the ages, sex and number of persons to be served;

(6) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW and RCW 74.13.031 and to require regular reports from each licensee;

(7) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted hereunder;

(8) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after consultation with ~~((the child care coordinating committee and other))~~ affected groups for child day-care requirements and with the children's services advisory committee for requirements for other agencies; and

(9) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons.

NEW SECTION. Sec. 12. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2005, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:

(1) RCW 74.13.090 (Child care coordinating committee) and 1995 c 399 s 204, 1993 c 194 s 7, 1989 c 381 s 3, & 1988 c 213 s 2; and

(2) RCW 74.13.0901 (Child care partnership) and 1989 c 381 s 4.

NEW SECTION. Sec. 14. Sections 1 through 6 of this act expire July 1, 2007.

NEW SECTION. Sec. 15. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 19, 2005.

Passed by the Senate April 14, 2005.

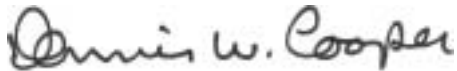
Approved by the Governor May 16, 2005.

Filed in Office of Secretary of State May 16, 2005.

AUTHENTICATION

I, Dennis W. Cooper, 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 2005 regular session (59th Legislature), chapters 285 through 490, 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 1st day of June, 2005.

A handwritten signature in dark ink that reads "Dennis W. Cooper". The signature is written in a cursive style with a large initial "D" and "C".

DENNIS W. COOPER
Code Reviser