

2020

SESSION LAWS

OF THE

STATE OF WASHINGTON

2020 REGULAR SESSION
SIXTY-SIXTH LEGISLATURE

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Code Reviser

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WASHINGTON SESSION LAWS GENERAL INFORMATION

1. EDITIONS AVAILABLE.

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

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

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

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

3. PARTIAL VETOES.

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

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

5. EFFECTIVE DATE OF LAWS.

- (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the effective date for the Laws of the 2020 regular session is June 11, 2020.
- (b) Laws that carry an emergency clause take effect immediately, or as otherwise specified, upon approval by the Governor.
- (c) Laws that prescribe an effective date take effect upon that date.

6. INDEX AND TABLES.

A cumulative index and tables of all 2020 laws may be found at the back of the final volume.

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
2020 SESSION			
1	INIT 976	Vehicle taxes, fees, and charges	1
2	ESSB 6492	Workforce education investment funding—Business and occupation tax	13
3	EHB 1687	Criminal defenses—Victim identity	25
4	EHB 1552	Health carrier provider credentialing	26
5	ESHB 2099	Involuntary treatment act—Video technology	28
6	HB 2739	Shared leave program—Various provisions	40
7	EHB 2965	Novel coronavirus	45
8	ESSB 6189	School employees’ benefits board—Coverage eligibility	54
9	HB 1165	Low-water landscaping practices	57
10	ESHB 1261	Discharges into waters—Federal clean water act	60
11	HB 1347	Vehicle reseller permits	67
12	ESHB 1520	Election dates on ballot envelopes	68
13	3SHB 1660	Extracurricular activities—Participation by low income students	69
14	HB 1750	County sheriff offices—Filling vacancies	74
15	HB 1755	Doctoral education degrees—Regional universities	77
16	2SHB 2066	Driver’s license restrictions—Use of motor vehicle in felony	77
17	HB 2109	Chehalis board—Membership	78
18	SHB 2205	Technical corrections	79
19	ESHB 2231	Bail jumping—Failure to appear or surrender	109
20	SHB 2246	Environmental health law reorganization	111
21	HB 2251	Dispensing of interchangeable biological product—Notice to practitioner—Expiration date	479
22	HB 2259	Office of the superintendent of public instruction—Criminal background checks	480
23	ESHB 2265	Firefighting foam—Use of certain chemicals	481
24	HB 2271	Transportation funding bonds—Correction of budget reference	483
25	SHB 2295	Small claims court judgments—Enforcement	484
26	ESHB 2318	Criminal investigatory practices—Various provisions	484
27	E2SHB 2405	Commercial property clean energy and resiliency— Financing program	498
28	E2SHB 2467	Firearm background check system—Single point of contact	506
29	SHB 2473	Domestic violence—Various provisions	513
30	SHB 2476	Debt buyers	536
31	HB 2508	City-owned utilities—Low-value surplus property donation	540
32	E2SHB 2518	Natural gas transmission and distribution	541
33	SHB 2525	Family connections program—Various provisions	544
34	SHB 2527	United States census—Rights	548
35	ESHB 2551	Graduation ceremonies—Tribal regalia	549
36	SHB 2555	Firearm background checks—Frames and receivers	550
37	SHB 2567	Courts—Immigration enforcement and civil arrests	551
38	ESHB 2571	Fish and wildlife violations—Enforcement	556
39	SHB 2589	Student and staff identification cards—Suicide prevention and crisis intervention information	561

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
40	HB 2617	School district surplus real property—Lease or rental for affordable housing	563
41	HB 2682	Children with developmental disabilities—Out-of-home services	564
42	HB 2762	Peer support group testimonial privilege—Department of corrections staff	568
43	ESHB 2783	Mobile on-demand gasoline providers—Fire safety	572
44	SHB 2785	Criminal justice training commission—Membership	574
45	EHB 2792	Missing and unidentified persons	574
46	EHB 2819	Certain pumped storage projects—Statewide significance	577
47	HB 2833	Board of engineers and land surveyors—Various provisions	579
48	HB 2837	State historical societies—Powers	580
49	HB 2853	Charter school commission—Various provisions	581
50	HB 2860	Plane coordinate system—Various provisions	585
51	SHB 2873	Family reconciliation services—Various provisions	589
52	ESB 5165	Citizenship and immigration status—Discrimination	593
53	ESB 5450	Superior court judges—Adding positions	603
54	SB 5519	Mosquito control districts—Assessment collection	604
55	SSB 5867	Drug offenses—Resentencing	605
56	SSB 5900	Veterans affairs—Lesbian, gay, bisexual, transgender, and queer coordinator	605
57	ESSB 6028	Uniform electronic transactions act	606
58	ESSB 6063	Department of corrections—Health care administration	672
59	SB 6066	Ethnic studies materials—Grades kindergarten through six	674
60	SSB 6074	Financial fraud and identity theft crimes investigation and prosecution program—Reauthorization	675
61	SB 6103	Education reporting requirements—Various provisions	678
62	SB 6119	Money laundering forfeiture—Gambling law enforcement	689
63	SSB 6135	Electric energy resources—Adequacy—Planning	690
64	SB 6136	Electronic benefit cards—Use at certain businesses	691
65	SB 6187	Agency data breach notifications—Last four digits of social security number	693
66	SSB 6208	Bicyclist stop sign requirements	696
67	SSB 6210	Antifouling paints—Recreational water vessels	699
68	2SSB 6309	Women, infants, and children program—Fruit and vegetable benefit	700
69	SB 6326	Municipal conflicts of interest—Various provisions	701
70	SB 6357	Pull-tabs—Dollar limit increase	704
71	SB 6423	Child abuse and neglect reports—Investigation—Liability	705
72	SB 6493	Cooper Jones active transportation safety council	706
73	SSB 6500	Foster care licensing—Licensee relocation	709
74	SB 6567	Blood donor day	710
75	SSB 6670	State parks—Library discover passes	713
76	ESHB 1551	Communicable disease control—Various provisions	713
77	SHB 2017	Administrative law judges—Collective bargaining	728
78	EHB 2188	Military veterans—Commercial driver’s license qualification waivers	735
79	E2SHB 2311	Greenhouse gas emission limits—Amendment	738
80	SHB 2378	Physician assistants—Various provisions	743

CHAPTER 1

[Initiative 976]

VEHICLE TAXES, FEES, AND CHARGES

AN ACT Relating to limiting state and local taxes, fees, and other charges relating to vehicles; amending RCW 46.17.350, 46.17.355, 46.17.323, 82.08.020, 82.44.065, 81.104.140, and 81.104.160; adding a new section to chapter 46.17 RCW; adding a new section to chapter 82.44 RCW; adding a new section to chapter 81.112 RCW; creating new sections; repealing RCW 46.17.365, 46.68.415, 82.80.130, 82.80.140, 82.44.035, and 81.104.160; and providing an effective date.

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

**BRING BACK OUR \$30 CAR TABS
POLICIES AND PURPOSES**

NEW SECTION. **Sec. 1.** Voters have repeatedly approved initiatives limiting vehicle costs, yet politicians keep ignoring the voters' repeated, unambiguous mandate by imposing higher and higher vehicle taxes and fees. It's not fair and it must stop. Without this follow-up ballot measure, vehicle costs will continue to skyrocket until vehicle charges are obscenely expensive, as they were prior to Initiative 695. This measure and each of its provisions limit state and local taxes, fees, and other charges relating to motor vehicles. This measure would limit annual motor vehicle license fees to \$30, except voter-approved charges, repeal and remove authority to impose certain vehicle taxes and charges; and base vehicle taxes on Kelley Blue Book rather than the dishonest, inaccurate, and artificially inflated manufacturer's suggested retail price (MRSP). Voters have repeatedly approved initiatives limiting vehicle costs. Politicians must learn to listen to the people.

**LIMITING ANNUAL MOTOR-VEHICLE-LICENSE FEES TO \$30,
EXCEPT VOTER-APPROVED CHARGES**

NEW SECTION. **Sec. 2.** A new section is added to chapter 46.17 RCW to read as follows:

- (1) State and local motor vehicle license fees may not exceed \$30 per year for motor vehicles, regardless of year, value, make, or model.
- (2) For the purposes of this section, "state and local motor vehicle license fees" means the general license tab fees paid annually for licensing motor vehicles, including but not limited to cars, sport utility vehicles, light trucks under RCW 46.17.355, motorcycles, and motor homes, and do not include charges approved by voters after the effective date of this section. This annual fee must be paid and collected annually and is due at the time of initial and renewal vehicle registration.

Sec. 3. RCW 46.17.350 and 2014 c 30 s 2 are each amended to read as follows:

- (1) Before accepting an application for a vehicle registration, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant, unless specifically exempt, to pay the following vehicle license fee by vehicle type:

VEHICLE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(a) Auto stage, six seats or less	\$ 30.00	\$ 30.00	RCW 46.68.030

VEHICLE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(b) Camper	\$ 4.90	\$ 3.50	RCW 46.68.030
(c) Commercial trailer	\$ ((34.00)) <u>30.00</u>	\$ 30.00	RCW 46.68.035
(d) For hire vehicle, six seats or less	\$ 30.00	\$ 30.00	RCW 46.68.030
(e) Mobile home (if registered)	\$ 30.00	\$ 30.00	RCW 46.68.030
(f) Moped	\$ 30.00	\$ 30.00	RCW 46.68.030
(g) Motor home	\$ 30.00	\$ 30.00	RCW 46.68.030
(h) Motorcycle	\$ 30.00	\$ 30.00	RCW 46.68.030
(i) Off-road vehicle	\$ 18.00	\$ 18.00	RCW 46.68.045
(j) Passenger car	\$ 30.00	\$ 30.00	RCW 46.68.030
(k) Private use single-axle trailer	\$ 15.00	\$ 15.00	RCW 46.68.035
(l) Snowmobile	\$ ((50.00)) <u>30.00</u>	\$ ((50.00)) <u>30.00</u>	RCW 46.68.350
(m) Snowmobile, vintage	\$ 12.00	\$ 12.00	RCW 46.68.350
(n) Sport utility vehicle	\$ 30.00	\$ 30.00	RCW 46.68.030
(o) Tow truck	\$ 30.00	\$ 30.00	RCW 46.68.030
(p) Trailer, over 2000 pounds	\$ 30.00	\$ 30.00	RCW 46.68.030
(q) Travel trailer	\$ 30.00	\$ 30.00	RCW 46.68.030
(r) Wheeled all-terrain vehicle, on-road use	\$ 12.00	\$ 12.00	RCW 46.09.540
(s) Wheeled all-terrain vehicle, off-road use	\$ 18.00	\$ 18.00	RCW 46.09.510

(2) The vehicle license fee required in subsection (1) of this section is in addition to the filing fee required under RCW 46.17.005, and any other fee or tax required by law.

Sec. 4. RCW 46.17.355 and 2015 3rd sp.s. c 44 s 201 are each amended to read as follows:

(1)(a) For vehicle registrations that are due or become due before July 1, 2016, in lieu of the vehicle license fee required under RCW 46.17.350 and before accepting an application for a vehicle registration for motor vehicles described in RCW 46.16A.455, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant, unless specifically exempt, to pay the following license fee by weight:

WEIGHT	SCHEDULE	SCHEDULE
	A	B
4,000 pounds	\$ 38.00	\$ 38.00
6,000 pounds	\$ 48.00	\$ 48.00
8,000 pounds	\$ 58.00	\$ 58.00
10,000 pounds	\$ 60.00	\$ 60.00

WEIGHT	SCHEDULE A	SCHEDULE B
12,000 pounds	\$ 77.00	\$ 77.00
14,000 pounds	\$ 88.00	\$ 88.00
16,000 pounds	\$ 100.00	\$ 100.00
18,000 pounds	\$ 152.00	\$ 152.00
20,000 pounds	\$ 169.00	\$ 169.00
22,000 pounds	\$ 183.00	\$ 183.00
24,000 pounds	\$ 198.00	\$ 198.00
26,000 pounds	\$ 209.00	\$ 209.00
28,000 pounds	\$ 247.00	\$ 247.00
30,000 pounds	\$ 285.00	\$ 285.00
32,000 pounds	\$ 344.00	\$ 344.00
34,000 pounds	\$ 366.00	\$ 366.00
36,000 pounds	\$ 397.00	\$ 397.00
38,000 pounds	\$ 436.00	\$ 436.00
40,000 pounds	\$ 499.00	\$ 499.00
42,000 pounds	\$ 519.00	\$ 609.00
44,000 pounds	\$ 530.00	\$ 620.00
46,000 pounds	\$ 570.00	\$ 660.00
48,000 pounds	\$ 594.00	\$ 684.00
50,000 pounds	\$ 645.00	\$ 735.00
52,000 pounds	\$ 678.00	\$ 768.00
54,000 pounds	\$ 732.00	\$ 822.00
56,000 pounds	\$ 773.00	\$ 863.00
58,000 pounds	\$ 804.00	\$ 894.00
60,000 pounds	\$ 857.00	\$ 947.00
62,000 pounds	\$ 919.00	\$ 1,009.00
64,000 pounds	\$ 939.00	\$ 1,029.00
66,000 pounds	\$ 1,046.00	\$ 1,136.00
68,000 pounds	\$ 1,091.00	\$ 1,181.00
70,000 pounds	\$ 1,175.00	\$ 1,265.00
72,000 pounds	\$ 1,257.00	\$ 1,347.00
74,000 pounds	\$ 1,366.00	\$ 1,456.00
76,000 pounds	\$ 1,476.00	\$ 1,566.00
78,000 pounds	\$ 1,612.00	\$ 1,702.00
80,000 pounds	\$ 1,740.00	\$ 1,830.00

WEIGHT	SCHEDULE	SCHEDULE
	A	B
82,000 pounds	\$ 1,861.00	\$ 1,951.00
84,000 pounds	\$ 1,981.00	\$ 2,071.00
86,000 pounds	\$ 2,102.00	\$ 2,192.00
88,000 pounds	\$ 2,223.00	\$ 2,313.00
90,000 pounds	\$ 2,344.00	\$ 2,434.00
92,000 pounds	\$ 2,464.00	\$ 2,554.00
94,000 pounds	\$ 2,585.00	\$ 2,675.00
96,000 pounds	\$ 2,706.00	\$ 2,796.00
98,000 pounds	\$ 2,827.00	\$ 2,917.00
100,000 pounds	\$ 2,947.00	\$ 3,037.00
102,000 pounds	\$ 3,068.00	\$ 3,158.00
104,000 pounds	\$ 3,189.00	\$ 3,279.00
105,500 pounds	\$ 3,310.00	\$ 3,400.00

(b) For vehicle registrations that are due or become due on or after July 1, 2016, in lieu of the vehicle license fee required under RCW 46.17.350 and before accepting an application for a vehicle registration for motor vehicles described in RCW 46.16A.455, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant, unless specifically exempt, to pay the following license fee by gross weight:

WEIGHT	SCHEDULE	SCHEDULE
	A	B
4,000 pounds	\$ (53.00) <u>30.00</u>	\$ (53.00) <u>30.00</u>
6,000 pounds	\$ (73.00) <u>30.00</u>	\$ (73.00) <u>30.00</u>
8,000 pounds	\$ (93.00) <u>30.00</u>	\$ (93.00) <u>30.00</u>
10,000 pounds	\$ (93.00) <u>30.00</u>	\$ (93.00) <u>30.00</u>
12,000 pounds	\$ 81.00	\$ 81.00
14,000 pounds	\$ 88.00	\$ 88.00
16,000 pounds	\$ 100.00	\$ 100.00
18,000 pounds	\$ 152.00	\$ 152.00
20,000 pounds	\$ 169.00	\$ 169.00
22,000 pounds	\$ 183.00	\$ 183.00
24,000 pounds	\$ 198.00	\$ 198.00

WEIGHT	SCHEDULE A	SCHEDULE B
26,000 pounds	\$ 209.00	\$ 209.00
28,000 pounds	\$ 247.00	\$ 247.00
30,000 pounds	\$ 285.00	\$ 285.00
32,000 pounds	\$ 344.00	\$ 344.00
34,000 pounds	\$ 366.00	\$ 366.00
36,000 pounds	\$ 397.00	\$ 397.00
38,000 pounds	\$ 436.00	\$ 436.00
40,000 pounds	\$ 499.00	\$ 499.00
42,000 pounds	\$ 519.00	\$ 609.00
44,000 pounds	\$ 530.00	\$ 620.00
46,000 pounds	\$ 570.00	\$ 660.00
48,000 pounds	\$ 594.00	\$ 684.00
50,000 pounds	\$ 645.00	\$ 735.00
52,000 pounds	\$ 678.00	\$ 768.00
54,000 pounds	\$ 732.00	\$ 822.00
56,000 pounds	\$ 773.00	\$ 863.00
58,000 pounds	\$ 804.00	\$ 894.00
60,000 pounds	\$ 857.00	\$ 947.00
62,000 pounds	\$ 919.00	\$ 1,009.00
64,000 pounds	\$ 939.00	\$ 1,029.00
66,000 pounds	\$ 1,046.00	\$ 1,136.00
68,000 pounds	\$ 1,091.00	\$ 1,181.00
70,000 pounds	\$ 1,175.00	\$ 1,265.00
72,000 pounds	\$ 1,257.00	\$ 1,347.00
74,000 pounds	\$ 1,366.00	\$ 1,456.00
76,000 pounds	\$ 1,476.00	\$ 1,566.00
78,000 pounds	\$ 1,612.00	\$ 1,702.00
80,000 pounds	\$ 1,740.00	\$ 1,830.00
82,000 pounds	\$ 1,861.00	\$ 1,951.00
84,000 pounds	\$ 1,981.00	\$ 2,071.00
86,000 pounds	\$ 2,102.00	\$ 2,192.00
88,000 pounds	\$ 2,223.00	\$ 2,313.00
90,000 pounds	\$ 2,344.00	\$ 2,434.00
92,000 pounds	\$ 2,464.00	\$ 2,554.00
94,000 pounds	\$ 2,585.00	\$ 2,675.00

WEIGHT	SCHEDULE	SCHEDULE
	A	B
96,000 pounds	\$ 2,706.00	\$ 2,796.00
98,000 pounds	\$ 2,827.00	\$ 2,917.00
100,000 pounds	\$ 2,947.00	\$ 3,037.00
102,000 pounds	\$ 3,068.00	\$ 3,158.00
104,000 pounds	\$ 3,189.00	\$ 3,279.00
105,500 pounds	\$ 3,310.00	\$ 3,400.00

(2) 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.

(3) If the resultant gross weight is not listed in the table provided in subsection (1) of this section, it must be increased to the next higher weight.

(4) The license fees provided in subsection (1) of this section and the freight project fee provided in subsection ~~((6))~~ (7) of this section are in addition to the filing fee required under RCW 46.17.005 and any other fee or tax required by law.

(5) The license fees provided in subsection (1) of this section for light trucks weighing 10,000 pounds or less are limited to \$30.

~~(6)~~ (6) The license fee based on declared gross weight as provided in subsection (1) of this section must be distributed under RCW 46.68.035.

~~((6))~~ (7) For vehicle registrations that are due or become due on or after July 1, 2016, in addition to the license fee based on declared gross weight as provided in subsection (1) of this section, the department, county auditor or other agent, or subagent appointed by the director must require an applicant with a vehicle with a declared gross weight of more than 10,000 pounds, unless specifically exempt, to pay a freight project fee equal to fifteen percent of the license fee provided in subsection (1) of this section, rounded to the nearest whole dollar, which must be distributed under RCW 46.68.035.

~~((7))~~ (8) For vehicle registrations that are due or become due on or after July 1, 2022, in addition to the license fee based on declared gross weight as provided in subsection (1) of this section, the department, county auditor or other agent, or subagent appointed by the director must require an applicant with a vehicle with a declared gross weight of less than or equal to 12,000 pounds, unless specifically exempt, to pay an additional weight fee of ten dollars, which must be distributed under RCW 46.68.035.

Sec. 5. RCW 46.17.323 and 2015 3rd sp.s. c 44 s 203 are each amended to read as follows:

(1) Before accepting an application for an annual vehicle registration renewal for a vehicle that both (a) uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and (b) is capable of traveling at least thirty miles using only battery power, the department, county auditor or other agent, or subagent appointed by the director must require the applicant to pay a ~~((one hundred dollar fee in addition to any~~

~~other fees and taxes required by law))~~ \$30 fee. The ~~((one hundred thirty dollar))~~ \$30 fee is due only at the time of annual registration renewal.

(2) This section only applies to a vehicle that is designed to have the capability to drive at a speed of more than thirty-five miles per hour.

~~((a) The fee under this section is imposed to provide funds to mitigate the impact of vehicles on state roads and highways and for the purpose of evaluating the feasibility of transitioning from a revenue collection system based on fuel taxes to a road user assessment system, and is separate and distinct from other vehicle license fees. Proceeds from the fee must be used for highway purposes, and must be deposited in the motor vehicle fund created in RCW 46.68.070, subject to (b) of this subsection.~~

~~((b)) If in any year the amount of proceeds from the fee collected under this section exceeds one million dollars, the excess amount over one million dollars must be deposited as follows:~~

~~((i)) (a) Seventy percent to the motor vehicle fund created in RCW 46.68.070;~~

~~((ii)) (b) Fifteen percent to the transportation improvement account created in RCW 47.26.084; and~~

~~((iii)) (c) Fifteen percent to the rural arterial trust account created in RCW 36.79.020.~~

~~((4)(a) In addition to the fee established in subsection (1) of this section, before accepting an application for an annual vehicle registration renewal for a vehicle that both (i) uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and (ii) is capable of traveling at least thirty miles using only battery power, the department, county auditor or other agent, or subagent appointed by the director must require the applicant to pay a fifty dollar fee.~~

~~(b) The fee required under (a) of this subsection must be distributed as follows:~~

~~(i) The first one million dollars raised by the fee must be deposited into the multimodal transportation account created in RCW 47.66.070; and~~

~~(ii) Any remaining amounts must be deposited into the motor vehicle fund created in RCW 46.68.070.~~

~~(5) This section applies to annual vehicle registration renewals until the effective date of enacted legislation that imposes a vehicle miles traveled fee or tax.)~~

REPEAL AND REMOVE AUTHORITY TO IMPOSE CERTAIN VEHICLE TAXES AND CHARGES

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

(1) RCW 46.17.365 (Motor vehicle weight fee—Motor home vehicle weight fee) and 2015 3rd sp.s. c 44 s 202 & 2010 c 161 s 533;

(2) RCW 46.68.415 (Motor vehicle weight fee, motor home vehicle weight fee—Disposition) and 2010 c 161 s 813;

(3) RCW 82.80.130 (Passenger-only ferry service—Local option motor vehicle excise tax authorized) and 2010 c 161 s 916, 2006 c 318 s 4, & 2003 c 83 s 206; and

(4) RCW 82.80.140 (Vehicle fee—Transportation benefit district—Exemptions) and 2015 3rd sp.s. c 44 s 310, 2010 c 161 s 917, 2007 c 329 s 2, & 2005 c 336 s 16.

Sec. 7. RCW 82.08.020 and 2014 c 140 s 12 are each amended to read as follows:

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

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

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

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

(d) Extended warranties to consumers; and

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

(2) There is levied and collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. The revenue collected under this subsection must be deposited in the multimodal transportation account created in RCW 47.66.070.

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

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

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

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

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

~~(d) Snowmobiles as defined in RCW 46.04.546.~~

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

~~((6))~~ (4) The taxes imposed under this chapter apply to successive retail sales of the same property.

~~((7))~~ (5) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

BASE VEHICLE TAXES USING KELLEY BLUE BOOK VALUE

NEW SECTION. **Sec. 8.** A new section is added to chapter 82.44 RCW to read as follows:

(1) **BASE VEHICLE TAXES USING KELLEY BLUE BOOK VALUE.** Any motor vehicle excise tax must be calculated in an honest and accurate way

so the burden on vehicle owners is not artificially inflated. For the purpose of determining a vehicle tax, a taxing district imposing a vehicle tax must set a vehicle's taxable value at the vehicle's base model Kelley Blue book value. This ensures an honest and accurate calculation of the tax and, combined with the appeal process in RCW 82.44.065, ensures that vehicle owners are taxed on their vehicle's market value.

(2) For the purpose of determining a tax under this chapter, the value of a truck-type power or trailing unit, or motor vehicle, including a passenger vehicle, motorcycle, motor home, sport utility vehicle, or light duty truck is the base model Kelley Blue book value of the vehicle, excluding applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs.

Sec. 9. RCW 82.44.065 and 2010 c 161 s 912 each amended to read as follows:

If the department determines a value for a vehicle (~~(equivalent to a manufacturer's base suggested retail price or the value of a truck or trailer under RCW 82.44.035))~~ under section 8 of this act, any person who pays a state or locally imposed tax for that vehicle may appeal the valuation to the department under chapter 34.05 RCW. If the taxpayer is successful on appeal, the department shall refund the excess tax in the manner provided in RCW 82.44.120. Using Kelley Blue Book value ensures an honest and accurate calculation.

Sec. 10. RCW 81.104.140 and 2015 3rd sp.s. c 44 s 318 are each amended to read as follows:

(1) Agencies authorized to provide high capacity transportation service, including transit agencies and regional transit authorities, and regional transportation investment districts acting with the agreement of an agency, are hereby granted dedicated funding sources for such systems. These dedicated funding sources, as set forth in RCW 81.104.150, 81.104.160, 81.104.170, and 81.104.175, are authorized only for agencies located in (a) each county with a population of two hundred ten thousand or more and (b) each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand except for those counties that do not border a county with a population as described under (a) of this subsection. In any county with a population of one million or more or in any county having a population of four hundred thousand or more bordering a county with a population of one million or more, these funding sources may be imposed only by a regional transit authority or a regional transportation investment district. Regional transportation investment districts may, with the approval of the regional transit authority within its boundaries, impose the taxes authorized under this chapter, but only upon approval of the voters and to the extent that the maximum amount of taxes authorized under this chapter have not been imposed.

(2) Agencies planning to construct and operate a high capacity transportation system should also seek other funds, including federal, state, local, and private sector assistance.

(3) Funding sources should satisfy each of the following criteria to the greatest extent possible:

(a) Acceptability;

- (b) Ease of administration;
- (c) Equity;
- (d) Implementation feasibility;
- (e) Revenue reliability; and
- (f) Revenue yield.

(4)(a) Agencies participating in regional high capacity transportation system development are authorized to levy and collect the following voter-approved local option funding sources:

(i) Employer tax as provided in RCW 81.104.150, other than by regional transportation investment districts;

~~(ii) ((Special motor vehicle excise tax as provided in RCW 81.104.160;~~

~~(iii))~~ Regular property tax as provided in 81.104.175; and

~~((iv))~~ (iii) Sales and use tax as provided in RCW 81.104.170.

(b) Revenues from these taxes may be used only to support those purposes prescribed in subsection (10) of this section. Before the date of an election authorizing an agency to impose any of the taxes enumerated in this section and authorized in RCW 81.104.150, 81.104.160, 81.104.170, and 81.104.175, the agency must comply with the process prescribed in RCW 81.104.100 (1) and (2) and 81.104.110. No construction on exclusive right-of-way may occur before the requirements of RCW 81.104.100(3) are met.

(5) Except for the regular property tax authorized in 81.104.175, the authorization in subsection (4) of this section may not adversely affect the funding authority of transit agencies not provided for in this chapter. Local option funds may be used to support implementation of interlocal agreements with respect to the establishment of regional high capacity transportation service. Except when a regional transit authority exists, local jurisdictions must retain control over moneys generated within their boundaries, although funds may be commingled with those generated in other areas for planning, construction, and operation of high capacity transportation systems as set forth in the agreements.

(6) Except for the regular property tax authorized in 81.104.175, agencies planning to construct and operate high capacity transportation systems may contract with the state for collection and transference of voter-approved local option revenue.

(7) Dedicated high capacity transportation funding sources authorized in RCW 81.104.150, 81.104.160, 81.104.170, and 81.104.175 are subject to voter approval by a simple majority. A single ballot proposition may seek approval for one or more of the authorized taxing sources. The ballot title must reference the document identified in subsection (8) of this section.

(8) Agencies must provide to the registered voters in the area a document describing the systems plan and the financing plan set forth in RCW 81.104.100. It must also describe the relationship of the system to regional issues such as development density at station locations and activity centers, and the interrelationship of the system to adopted land use and transportation demand management goals within the region. This document must be provided to the voters at least twenty days prior to the date of the election.

(9) For any election in which voter approval is sought for a high capacity transportation system plan and financing plan pursuant to RCW 81.104.040, a local voter's pamphlet must be produced as provided in chapter 29A.32 RCW.

(10)(a) Agencies providing high capacity transportation service must retain responsibility for revenue encumbrance, disbursement, and bonding. Funds may be used for any purpose relating to planning, construction, and operation of high capacity transportation systems and commuter rail systems, personal rapid transit, busways, bus sets, and entrained and linked buses.

(b) A regional transit authority that (~~imposes a motor vehicle excise tax after the effective date of this section,~~) imposes a property tax((s)) or increases a sales and use tax to more than nine-tenths of one percent must undertake a process in which the authority's board formally considers inclusion of the name, Scott White, in the naming convention associated with either the University of Washington or Roosevelt stations.

NEW SECTION. **Sec. 11.** The following acts or parts of acts are each repealed:

(1) RCW 82.44.035 (Valuation of vehicles) and 2010 c 161 s 910 & 2006 c 318 s 1; and

(2) RCW 81.104.160 (Motor vehicle excise tax for regional transit authorities---Sales and use tax on car rentals---Former motor vehicle excise tax repealed) and 2015 3rd sp.s. c 44 s 319, 2010 c 161 s 903, 2009 c 280 s 4, 2003 c 1 s 6 (Initiative Measure No. 776, approved November 5, 2002), & 1998 c 321 s 35 (Referendum Bill No. 49, approved November 3, 1998).

NEW SECTION. **Sec. 12.** A new section is added to chapter 81.112 RCW to read as follows:

In order to effectuate the policies, purposes, and intent of this act and to ensure that the motor vehicle excise taxes repealed by this act are no longer imposed or collected, an authority that imposes a motor vehicle excise tax under RCW 81.104.160 must fully retire, defease, or refinance any outstanding bonds issued under this chapter if:

(1) Any revenue collected prior to the effective date of this section from the motor vehicle excise tax imposed under RCW 81.104.160 has been pledged to such bonds; and

(2) The bonds, by virtue of the terms of the bond contract, covenants, or similar terms, may be retired or defeased early or refinanced.

Sec. 13. RCW 81.104.160 and 2015 3rd sp.s. c 44 s 319 are each amended to read as follows:

(1) Regional transit authorities that include a county with a population of more than one million five hundred thousand may submit an authorizing proposition to the voters, and if approved, may levy and collect an excise tax, at a rate approved by the voters, but not exceeding (~~eight-tenths~~) two-tenths of one percent on the value, under chapter 82.44 RCW, of every motor vehicle owned by a resident of the taxing district, solely for the purpose of providing high capacity transportation service. The maximum tax rate under this subsection does not include a motor vehicle excise tax approved before the effective date of this section, if the tax will terminate on the date bond debt to which the tax is pledged is repaid. This tax does not apply to vehicles licensed under RCW 46.16A.455 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16A.425 or 46.17.335(2). Notwithstanding any other provision of this subsection or chapter 82.44 RCW, a motor vehicle excise tax imposed by a regional transit authority before or after the effective date of this

section must comply with chapter 82.44 RCW as it existed on January 1, 1996, until December 31st of the year in which the regional transit authority repays bond debt to which a motor vehicle excise tax was pledged before the effective date of this section. Motor vehicle taxes collected by regional transit authorities after December 31st of the year in which a regional transit authority repays bond debt to which a motor vehicle excise tax was pledged before the effective date of this section must comply with chapter 82.44 RCW as it existed on the date the tax was approved by voters.

(2) An agency and high capacity transportation corridor area may impose a sales and use tax solely for the purpose of providing high capacity transportation service, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the applicable jurisdiction that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax may not exceed 2.172 percent. The rate of tax imposed under this subsection must bear the same ratio of the 2.172 percent authorized that the rate imposed under subsection (1) of this section bears to the rate authorized under subsection (1) of this section. The base of the tax is the selling price in the case of a sales tax or the rental value of the vehicle used in the case of a use tax.

(3) Any motor vehicle excise tax previously imposed under the provisions of RCW 81.104.160(1) shall be repealed, terminated, and expire on December 5, 2002, except for a motor vehicle excise tax for which revenues have been contractually pledged to repay a bonded debt issued before December 5, 2002, as determined by *Pierce County et al. v. State*, 159 Wn.2d 16, 148 P.3d 1002 (2006). In the case of bonds that were previously issued, the motor vehicle excise tax must comply with chapter 82.44 RCW as it existed on January 1, 1996.

(4) If a regional transit authority imposes the tax authorized under subsection (1) of this section, the authority may not receive any state grant funds provided in an omnibus transportation appropriations act except transit coordination grants created in chapter 11, Laws of 2015 3rd sp. sess.

NEW SECTION. Sec. 14. CONSTRUCTION CLAUSE. The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. Sec. 15. SEVERABILITY CLAUSE. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 16. EFFECTIVE DATE. (1) Sections 10 and 11 of this act take effect on the date that the regional transit authority complies with section 12 of this act and retires, defeases, or refinances its outstanding bonds.

(2) Section 13 takes effect April 1, 2020, if sections 10 and 11 of this act have not taken effect by March 31, 2020.

(3) The regional transit authority must provide written notice of the effective dates of sections 10, 11, and 13 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the regional transit authority.

NEW SECTION. Sec. 17. TITLE. This act is known and may be cited as "Bring Back Our \$30 Car Tabs."

CHAPTER 2

[Engrossed Substitute Senate Bill 6492]

WORKFORCE EDUCATION INVESTMENT FUNDING--BUSINESS AND OCCUPATION TAX

AN ACT Relating to addressing workforce education investment funding through business and occupation tax reform; amending RCW 28C.18.200, 43.79.195, 82.04.290, and 82.04.299; creating new sections; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 28C.18.200 and 2019 c 406 s 3 are each amended to read as follows:

(1) The workforce education investment accountability and oversight board is established. The board consists of seventeen members, as provided in this subsection:

(a) Four members of the legislature consisting of the chairs and ranking minority members of the respective higher education and workforce development committees of the senate and house of representatives, ex officio; and

(b) The following members appointed by the governor with the consent of the senate:

(i) Five members representing the businesses described in RCW 82.04.299 or subject to the tax rate under RCW 82.04.290(2)(a)(i);

(ii) Two members representing labor organizations, one of which must have expertise in registered apprenticeships and training a high-demand workforce and one of which must represent faculty at the four-year institutions of higher education;

(iii) Two members representing the institutions of higher education, as defined in RCW 28B.10.016, one of which must be from the four-year sector and one of which must be from the community and technical college sector;

(iv) Two members representing students, one of which must be a community and technical college student;

(v) One member representing the independent, not-for-profit higher education institutions; and

(vi) One member representing the student achievement council, established under chapter 28B.77 RCW.

(2) Except for ex officio and student members, board members shall hold their offices for a term of three years until their successors are appointed. Student board members shall hold one-year terms.

(3) The board shall have two cochairs. One cochair shall be one of the chairs of the respective higher education and workforce development committees of the legislature and the other cochair shall be one of the board members representing the businesses described in RCW 82.04.299 or subject to the tax rate under RCW 82.04.290(2)(a)(i). The cochairs shall hold the position for a one-year term. The board members shall elect the cochairs annually.

(4) Nine voting members of the board constitute a quorum for the transaction of business. The board shall meet four times a year.

(5) Staff support for the board shall be provided by the workforce training and education coordinating board established in this chapter ((28C.18 RCW)).

(6) The purposes of the board are to:

(a) Provide guidance and recommendations to the legislature on what workforce education priorities should be funded with the workforce education investment account; and

(b) Ensure accountability that the workforce education investments funded with the workforce education investment account are producing the intended results and are effectively increasing student success and career readiness, such as by increasing retention, completion, and job placement rates.

(7) The board shall consult data from the education data center established under RCW 43.41.400 and the workforce training and education coordinating board established under this chapter (~~(28C.18 RCW)~~) when reviewing and determining whether workforce education investments funded from the workforce education investment account are effectively increasing student success and career readiness.

(8) The board shall report its recommendations to the appropriate committees of the legislature by August 1st of each year.

(9) For the purposes of this section, "board" means the workforce education investment accountability and oversight board established in this section.

Sec. 2. RCW 43.79.195 and 2019 c 406 s 2 are each amended to read as follows:

(1) The workforce education investment account is created in the state treasury. All revenues from the workforce investment surcharge((s)) created in RCW 82.04.299 and those revenues as specified under RCW 82.04.290(2)(c) must be deposited directly into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for higher education programs, higher education operations, higher education compensation, and state-funded student aid programs. For the 2019-2021 biennium, expenditures from the account may be used for kindergarten through twelfth grade if used for career connected learning as provided for in chapter 406, Laws of 2019.

(2) Expenditures from the workforce education investment account must be used to supplement, not supplant, other federal, state, and local funding for higher education.

Sec. 3. RCW 82.04.290 and 2019 c 426 s 2 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of providing qualifying international investment management services, as to such persons, the amount of tax with respect to such business is equal to the gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.

(2)(a) Upon every person engaging within this state in any business activity other than or in addition to an activity taxed explicitly under another section in this chapter or subsection (1) or (3) of this section; as to such persons the amount of tax on account of such activities is equal to the gross income of the business multiplied by the rate of:

(i) 1.75 percent; or

(ii) 1.5 percent for:

(A) Any person subject to the surcharge imposed under RCW 82.04.299;

(B) Any person whose gross income of the business subject to the tax imposed under this subsection (2), for the immediately preceding calendar year, was less than one million dollars, unless (I) the person is affiliated with one or more other persons, and (II) the aggregate gross income of the business subject to the tax imposed under this subsection (2) for all affiliated persons was greater than or equal to one million dollars for the immediately preceding calendar year; and

(C) Hospitals as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW. This subsection (2)(a)(ii)(C) must not be construed as modifying RCW 82.04.260(10).

(b) This subsection (2) 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 or her principal or supplier to be used for informational, educational, and promotional purposes is not considered a part of the agent's remuneration or commission and is not subject to taxation under this section.

(c) 14.3 percent of the revenues collected under (a)(i) of this subsection (2) must be deposited into the workforce education investment account created in RCW 43.79.195.

(d)(i) To aid in the effective administration of this subsection (2), the department may require a person claiming to be subject to the 1.5 percent tax rate under (a)(ii)(B) of this subsection (2) to identify all of the person's affiliates, including their department tax registration number or unified business identifier number, as may be applicable, or to certify that the person is not affiliated with any other person. Requests under this subsection (2)(d)(i) must be in writing and may be made electronically.

(ii) If the department establishes, by clear, cogent, and convincing evidence, that a person, with intent to evade the additional taxes due under the 1.75 percent tax rate in (a)(i) of this subsection (2), failed to provide the department with complete and accurate information in response to a written request under (d)(i) of this subsection (2) within thirty days of such request, the person is ineligible for the 1.5 percent tax rate in (a)(ii) of this subsection (2) for the entire current calendar year and the following four calendar years. However, the department must waive the provisions of this subsection (2)(d)(ii) for any tax reporting period that the person is otherwise eligible for the 1.5 percent tax rate in (a)(ii) of this subsection (2) if (A) the department has not previously determined that the person failed to fully comply with (d)(i) of this subsection (2), and (B) within thirty days of the notice of additional tax due as a result of the person's failure to fully comply with (d)(i) of this subsection (2) the department determines that the person has come into full compliance with (d)(i) of this subsection (2). This subsection (2)(d) applies only with respect to persons claiming entitlement to the 1.5 percent tax rate solely by reason of (a)(ii)(B) of this subsection (2).

(e) For the purposes of (a)(ii)(B) of this subsection (2), if a taxpayer is subject to the reconciliation provisions of RCW 82.04.462(4), and calculates gross income of the business subject to the tax imposed under this subsection (2)

for the immediately preceding calendar year, or aggregate gross income of the business subject to the tax imposed under this subsection (2) for the immediately preceding calendar year for all affiliated persons, based on incomplete information, the taxpayer must correct the reporting for the current calendar year when complete information for the immediately preceding calendar year is available.

(f) For purposes of this subsection (2), the definitions in this subsection (2)(f) apply:

(i) "Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person; and

(ii) "Control" means the possession, directly or indirectly, of more than eighty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(3)(a) Until July 1, 2040, upon every person engaging within this state in the business of performing aerospace product development for others, as to such persons, the amount of tax with respect to such business is equal to the gross income of the business multiplied by a rate of 0.9 percent.

(b) A person reporting under the tax rate provided in this subsection (3) must file a complete annual report with the department under RCW 82.32.534.

(c) "Aerospace product development" has the meaning as provided in RCW 82.04.4461.

Sec. 4. RCW 82.04.299 and 2019 c 406 s 74 are each amended to read as follows:

~~((The legislature intends to secure additional revenue via surcharges targeted towards certain industries including select advanced computing businesses.~~

~~The legislature intends the provisions of chapter 406, Laws of 2019 to be applied broadly in favor of application of the surcharges. To achieve this intent, any provision within chapter 406, Laws of 2019 that is deemed to be ambiguous by a court of competent jurisdiction, the board of tax appeals, or any other judicial or administrative body, should be construed in favor of application of the surcharges. The rule of statutory construction in favor of the application of the surcharge under this paragraph does not apply on or after January 1, 2022.~~

~~(1)(a) Beginning with business activities occurring on or after January 1, 2020, in addition to the taxes imposed under RCW 82.04.290(2), a workforce education investment surcharge is imposed on specified persons. The surcharge is equal to the total amount of tax payable by the person on business activities taxed under RCW 82.04.290(2), before application of any tax credits, multiplied by the rate of twenty percent.~~

~~(b) For specified persons who report under one or more tax classifications, this surcharge applies only to business activities taxed under RCW 82.04.290(2).~~

~~(c) The surcharge imposed under this subsection (1) must be reported and paid in a manner and frequency as required by the department.~~

~~(2) For the purposes of this section, "specified person" means a person who is not subject to the surcharge under subsection (4) of this section and who is primarily engaged within this state in any combination of the following activities:~~

~~(a) Computer software publishing or publishing and reproduction. Establishments in this industry carry out operations necessary for producing and distributing computer software, such as designing, providing documentation, assisting in installation, and providing support services to software purchasers. These establishments may design, develop, and publish, or publish only. These establishments may publish and distribute software remotely through subscriptions and downloads;~~

~~(b) Conducting original investigation undertaken on a systematic basis to gain new knowledge or the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes. Techniques may include modeling and simulation. The industries within this industry group are defined on the basis of the domain of research and on scientific expertise of the establishment;~~

~~(c) Putting capital at risk in the process of underwriting securities issues or in making markets for securities and commodities and those acting as agents or brokers between buyers and sellers of securities and commodities, usually charging a commission;~~

~~(d) Providing expertise in the field of information technologies through one or more of the following activities: (i) Writing, modifying, testing, and supporting computer software to meet the needs of a particular customer; (ii) planning and designing computer systems that integrate computer hardware, computer software, and communication technologies; (iii) on site management and operation of clients' computer systems and data processing facilities; or (iv) other professional and technical computer related advice and services;~~

~~(e) Performing central banking functions, such as issuing currency, managing the nation's money supply and international reserves, holding deposits that represent the reserves of other banks and other central banks, and acting as a fiscal agent for the central government;~~

~~(f)(i) Purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services, except satellite, to businesses and households; (ii) providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation; (iii) providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems; or (iv) providing internet access services or voice over internet protocol services via client-supplied telecommunications connections. Establishments in this industry do not operate as telecommunications carriers. Mobile virtual network operators are included in this industry;~~

~~(g)(i) Acting as principals in buying or selling financial contracts, except investment bankers, securities dealers, and commodity contracts dealers; (ii) acting as agents or brokers, except securities brokerages and commodity contracts brokerages, in buying or selling financial contracts; or (iii) providing other investment services except securities and commodity exchanges, such as portfolio management, investment advice, and trust, fiduciary, and custody services;~~

~~(h) Supplying information, such as news reports, articles, pictures, and features, to the news media. This industry comprises establishments primarily~~

~~engaged in providing library or archive services. These establishments are engaged in maintaining collections of documents and facilitating the use of these documents as required to meet the informational, research, educational, or recreational needs of their user. These establishments may also acquire, research, store, preserve, and generally make accessible to the public historical documents, photographs, maps, audio material, audiovisual material, and other archival material of historical interest. All or portions of these collections may be accessible electronically. This industry comprises establishments engaged in: (i) Publishing and broadcasting content on the internet exclusively; or (ii) operating web sites that use a search engine to generate and maintain extensive databases of internet addresses and content in an easily searchable format, known as web search portals. The publishing and broadcasting establishments in this industry do not provide traditional versions of the content they publish or broadcast. They provide textual, audio, or video content of general or specific interest on the internet exclusively. Establishments known as web search portals often provide additional internet services, such as email, connections to other web sites, auctions, news, and other limited content, and serve as a home base for internet users. This industry comprises establishments primarily engaged in providing other information services, except news syndicates, libraries, archives, internet publishing and broadcasting, and web search portals;~~

~~(i) Architectural, engineering, and related services, such as drafting services, building inspection services, geophysical surveying and mapping services, surveying and mapping, except geophysical services and testing services;~~

~~(j) Retailing all types of merchandise using nonstore means, such as catalogs, toll-free telephone numbers, electronic media, such as interactive television or the internet, or selling directly to consumers in a nonretail, physical environment. Included in this industry are establishments primarily engaged in retailing from catalog showrooms of mail-order houses;~~

~~(k) Providing advice and assistance to businesses and other organizations on management, environmental, scientific, and technical issues;~~

~~(l) Providing infrastructure for hosting or data processing services. These establishments may provide specialized hosting activities, such as web hosting, streaming services, or application hosting, or they may provide general time-share mainframe facilities to clients. Data processing establishments provide complete processing and specialized reports from data supplied by clients or provide automated data processing and data entry services;~~

~~(m) Facilitating credit intermediation by performing activities, such as arranging loans by bringing borrowers and lenders together and clearing checks and credit card transactions;~~

~~(n) Offering legal services, such as those offered by offices of lawyers, offices of notaries, and title abstract and settlement offices, and paralegal services;~~

~~(o) Operating or providing access to transmission facilities and infrastructure that they own or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired~~

telephony services, including voice over internet protocol services, wired audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry;

(p) Providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications;

(q) Operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless internet access, and wireless video services;

(r) Extending credit or lending funds raised by credit market borrowing, such as issuing commercial paper or other debt instruments or by borrowing from other financial intermediaries;

(s) Underwriting annuities and insurance policies and investing premiums to build up a portfolio of financial assets to be used against future claims. Direct insurance carriers are establishments that are primarily engaged in initially underwriting and assuming the risk of annuities and insurance policies. Reinsurance carriers are establishments that are primarily engaged in assuming all or part of the risk associated with an existing insurance policy originally underwritten by another insurance carrier. Industries are defined in terms of the type of risk being insured against, such as death, loss of employment because of age or disability, or property damage. Contributions and premiums are set on the basis of actuarial calculations of probable payouts based on risk factors from experience tables and expected investment returns on reserves;

(t) Merchant wholesale distribution of photographic equipment and supplies and office, computer, and computer peripheral equipment and medical, dental, hospital, ophthalmic, and other commercial and professional equipment and supplies;

(u) Operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature. These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers;

(v) Publishing newspapers, magazines, other periodicals, books, directories and mailing lists, and other works, such as calendars, greeting cards, and maps. These works are characterized by the intellectual creativity required in their development and are usually protected by copyright. Publishers distribute or arrange for the distribution of these works. Publishing establishments may create the works in-house, or contract for, purchase, or compile works that were originally created by others. These works may be published in one or more formats, such as print or electronic form, including proprietary electronic networks. Establishments in this industry may print, reproduce, or offer direct access to the works themselves or may arrange with others to carry out such functions. Establishments that both print and publish may fill excess capacity

~~with commercial or job printing. However, the publishing activity is still considered to be the primary activity of these establishments;~~

~~(w) Generating, transmitting, or distributing electric power. Establishments in this industry group may perform one or more of the following activities: (i) Operate generation facilities that produce electric energy; (ii) operate transmission systems that convey the electricity from the generation facility to the distribution system; or (iii) operate distribution systems that convey electric power received from the generation facility or the transmission system to the final consumer;~~

~~(x) Providing specialized design services including interior design, industrial design, graphic design, and others, but not including architectural, engineering, and computer systems design;~~

~~(y) Assigning rights to assets, such as patents, trademarks, brand names, or franchise agreements, for which a royalty payment or licensing fee is paid to the asset holder;~~

~~(z) Acting as agents in selling annuities and insurance policies or providing other employee benefits and insurance related services, such as claims adjustment and third-party administration;~~

~~(aa) Business-to-business electronic markets that bring together buyers and sellers of goods using the internet or other electronic means and generally receive a commission or fee for the service. Business-to-business electronic markets for durable and nondurable goods are included in this industry. This industry comprises wholesale trade agents and brokers acting on behalf of buyers or sellers in the wholesale distribution of goods. Agents and brokers do not take title to the goods being sold but rather receive a commission or fee for their service. Agents and brokers for all durable and nondurable goods are included in this industry;~~

~~(bb) Accepting deposits or share deposits and in lending funds from these deposits. Within this group, industries are defined on the basis of differences in the types of deposit liabilities assumed and in the nature of the credit extended;~~

~~(cc)(i) Manufacturing complete aircraft, missiles, or space vehicles; (ii) manufacturing aerospace engines, propulsion units, auxiliary equipment or parts; (iii) developing and making prototypes of aerospace products; (iv) aircraft conversion; or (v) complete aircraft or propulsion systems overhaul and rebuilding;~~

~~(dd) Advertising, public relations, and related services, such as media buying, independent media representation, outdoor advertising, direct mail advertising, advertising material distribution services, and other services related to advertising;~~

~~(ee) Providing services, such as auditing of accounting records, designing accounting systems, preparing financial statements, developing budgets, preparing tax returns, processing payrolls, bookkeeping, and billing;~~

~~(ff) The independent practice of general or specialized medicine or surgery by businesses comprised of one or more health practitioners having the degree of doctor of medicine or doctor of osteopathy. These practitioners operate private or group practices in their own offices or in the facilities of others, such as hospitals or health maintenance organization medical centers;~~

~~(gg) Providing a range of outpatient services, such as family planning, diagnosis and treatment of mental health disorders and alcohol and other~~

substance abuse, and other general or specialized outpatient care by businesses with medical staff;

(hh) Pooling securities or other assets, except insurance and employee benefit funds, on behalf of shareholders, unit holders, or beneficiaries, by legal entities such as investment pools or funds;

(ii) Promoting the interests of an organization's members, except religious organizations, social advocacy organizations, and civic and social organizations. Examples of establishments in this industry are business associations, professional organizations, labor unions, and political organizations;

(jj) Holding the securities of or other equity interests in companies and enterprises for the purpose of owning a controlling interest or influencing management decisions or businesses that administer, oversee, and manage other establishments of the company or enterprise and that normally undertake the strategic or organizational planning and decision-making role of the company or enterprise. Establishments that administer, oversee, and manage may hold the securities of the company or enterprise;

(kk) For medical and diagnostic laboratories, providing analytic or diagnostic services, including body fluid analysis and diagnostic imaging, generally to the medical profession or to the patient on referral from a health practitioner;

(ll) Serving as offices of chief executives and their advisory committees and commissions. This industry includes offices of the president, governors, and mayors, in addition to executive advisory commissions. This industry comprises government establishments serving as legislative bodies and their advisory committees and commissions. Included in this industry are legislative bodies, such as congress, state legislatures, and advisory and study legislative commissions. This industry comprises government establishments primarily engaged in public finance, taxation, and monetary policy. Included are financial administration activities, such as monetary policy, tax administration and collection, custody and disbursement of funds, debt and investment administration, auditing activities, and government employee retirement trust fund administration. This industry comprises government establishments serving as councils and boards of commissioners or supervisors and such bodies where the chief executive is a member of the legislative body itself. This industry comprises American Indian and Alaska Native governing bodies. Establishments in this industry perform legislative, judicial, and administrative functions for their American Indian and Alaska Native lands. Included in this industry are American Indian and Alaska Native councils, courts, and law enforcement bodies. This industry comprises government establishments primarily engaged in providing general support for government. Such support services include personnel services, election boards, and other general government support establishments that are not classified elsewhere in public administration;

(mm) Providing a range of office administrative services, such as financial planning, billing and recordkeeping, personnel, and physical distribution and logistics, for others on a contract or fee basis. These establishments do not provide operating staff to carry out the complete operations of a business;

(nn) Providing professional, scientific, or technical services including marketing research, public opinion polling, photographic services, translation

~~and interpretation services, and veterinary services. This category does not include legal services, accounting, tax preparation, bookkeeping, architectural, engineering, and related services, specialized design services, computer systems design, management, scientific and technical consulting services, scientific research and development services, or advertising services;~~

~~(oo) The independent practice of general or specialized dentistry or dental surgery by businesses comprised of one or more health practitioners having the degree of doctor of dental medicine, doctor of dental surgery, or doctor of dental science. These practitioners operate private or group practices in their own offices or in the facilities of others, such as hospitals or health maintenance organization medical centers. They may provide either comprehensive preventive, cosmetic, or emergency care, or specialize in a single field of dentistry;~~

~~(pp) The independent practice of general or specialized medicine or surgery, or general or specialized dentistry or dental surgery, by businesses comprised of one or more independent health practitioners, other than physicians and dentists;~~

~~(qq) Providing ambulatory health care services.~~

~~(3)(a)(i) For the purposes of this section, a person is primarily engaged within this state in any combination of the activities described in subsection (2) of this section if more than fifty percent of the person's cumulative gross amount reportable under this chapter during the entire current or immediately preceding calendar year was generated from engaging in any one or more of the activities described in subsection (2) of this section. For purposes of this subsection, "gross amount reportable" means the total value of products, gross proceeds of sales, and gross income of the business, reportable to the department before application of any tax deductions.~~

~~(ii) If a person was not primarily engaged within this state in any combination of the activities described in subsection (2) of this section during the immediately preceding year, and the person is unsure whether the person will be subject to the workforce investment surcharge for the current calendar year until the close of the current calendar year, the person must, if necessary, file corrected returns with the department of revenue to pay any additional tax due under this section for the current calendar year. Payment of additional tax, along with corrected returns, is due and payable when the person's last return for the calendar year during which the tax liability accrued is due and payable. Additional tax due under this section is subject to penalties and interest as provided under chapter 82.32 RCW only if the tax is not paid in full by the date due as provided in this subsection (3)(a)(ii).~~

~~(b) The entire amount of gross income of the business received by a person pursuant to a contract under which the person is obligated to perform any activity described under subsection (2) of this section is deemed to be generated from engaging in any one or more of the activities described in subsection (2) of this section.~~

~~(4)) (1)(a) Beginning with business activities occurring on or after ((January)) April 1, 2020, in addition to the taxes imposed under RCW 82.04.290(2), a workforce education investment surcharge is imposed on select advanced computing businesses ((as follows:~~

~~(i) For an affiliated group that has worldwide gross revenue of more than twenty-five billion dollars, but not more than one hundred billion dollars, during~~

the entire current or immediately preceding calendar year, the surcharge is equal to the total amount of tax payable by each member of the affiliated group on all business activities taxed under RCW 82.04.290(2), before application of any tax credits, multiplied by the rate of thirty-three and one-third percent.

(ii) For an affiliated group that has worldwide gross revenue of more than one hundred billion dollars during the entire current or immediately preceding calendar year, the surcharge is equal to the total amount of tax payable by each member of the affiliated group on all business activities taxed under RCW 82.04.290(2), before application of any tax credits, multiplied by the rate of sixty-six and two-thirds percent). The surcharge is equal to the gross income of the business subject to the tax under RCW 82.04.290(2), multiplied by the rate of 1.22 percent.

(b) ~~((In))~~ Except as provided in (e) of this subsection (1), in no case will the combined surcharge imposed under this subsection ~~((4))~~ (1) paid by all members of an affiliated group be ~~((less than four million dollars or))~~ more than ~~((seven))~~ nine million dollars annually.

(c) For persons subject to the surcharge imposed under this subsection ~~((4))~~ (1) that report under one or more tax classifications, the surcharge applies only to business activities taxed under RCW 82.04.290(2).

(d) The surcharge imposed under this subsection ~~((4))~~ (1) must be reported and paid on a quarterly basis in a manner ~~((and frequency))~~ as required by the department. Returns and amounts payable under this subsection (1) are due by the last day of the month immediately following the end of the reporting period covered by the return. All other taxes must be reported and paid as required under RCW 82.32.045.

(e)~~(i)~~ To aid in the effective administration of the surcharge in this subsection ~~((4))~~ (1), the department may require persons believed to be engaging in advanced computing or affiliated with a person believed to be engaging in advanced computing to disclose whether they are a member of an affiliated group and, if so, to identify all other members of the affiliated group subject to the surcharge.

(ii) If the department ((determines)) establishes, by clear, cogent, and convincing evidence, that ((a person)) one or more members of an affiliated group, with intent to evade the surcharge under this subsection ((4)) (1), failed to fully comply with this subsection ((4)) (1)(c), the ((seven million dollar limitation in (b) of this subsection (4) does not apply to the person's affiliated group)) department must assess against that person, or those persons collectively, a penalty equal to fifty percent of the amount of the total surcharge payable by all members of that affiliated group for the calendar year during which the person or persons failed to fully comply with this subsection (1)(c). The penalty under this subsection (1)(c) is in lieu of and not in addition to the evasion penalty under RCW 82.32.090(7).

(f) For the purposes of this subsection ~~((4))~~ (1) the following definitions apply:

(i) "Advanced computing" means designing or developing computer software or computer hardware, whether directly or contracting with another person, including modifications to computer software or computer hardware, cloud computing services, or operating an online marketplace, an online search engine, or online social networking platform;

(ii) "Affiliate" and "affiliated" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;

(iii) "Affiliated group" means a group of two or more persons that are affiliated with each other;

(iv) "Cloud computing services" means on-demand delivery of computing resources, such as networks, servers, storage, applications, and services, over the internet;

(v) "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise; and

(vi) "Select advanced computing business" means a person who is a member of an affiliated group with at least one member of the affiliated group engaging in the business of advanced computing, and the affiliated group has worldwide gross revenue of more than twenty-five billion dollars during the ~~((entire current or))~~ immediately preceding calendar year. A person who is primarily engaged within this state in the provision of commercial mobile service, as that term is defined in 47 U.S.C. Sec. 332(d)(1), shall not be considered a select advanced computing business. A person who is primarily engaged in this state in the operation and provision of access to transmission facilities and infrastructure that the person owns or leases for the transmission of voice, data, text, sound, and video using wired telecommunications networks shall not be considered a select advanced computing business. A person that is primarily engaged in business as a "financial institution" as defined in RCW 82.04.29004, as that section existed on January 1, 2020, shall not be considered a select advanced computing business. For purposes of this subsection (1)(f)(vi), "primarily" is determined based on gross income of the business.

~~((5))~~ (2) The workforce education investment surcharge~~((s))~~ under this section ~~((do))~~ does not apply to any hospital as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW.

~~((6))~~ (3) Revenues from the surcharge~~((s))~~ under this section must be deposited directly into the workforce education investment account established in RCW 43.79.195.

~~((7))~~ (4) The department has the authority to determine through an audit or other investigation whether a person is subject to the surcharge~~((s))~~ imposed in this section. ~~((The department's determination that a person is subject to the surcharge is presumed to be correct unless the person shows by clear, cogent, and convincing evidence that the department's determination was incorrect. The increased evidentiary standard under this subsection (7) does not apply after January 1, 2022.))~~

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 6. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. Sec. 7. (1) Except as otherwise provided in this section, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

(2) Sections 1 through 3 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 April 1, 2020.

NEW SECTION. Sec. 8. Section 4 of this act applies both prospectively and retroactively to January 1, 2020.

NEW SECTION. Sec. 9. Section 3 of this act applies beginning with gross income of the business, as defined in RCW 82.04.080, received or accrued by taxpayers, on or after April 1, 2020.

Passed by the Senate January 30, 2020.

Passed by the House February 6, 2020.

Approved by the Governor February 10, 2020.

Filed in Office of Secretary of State February 10, 2020.

CHAPTER 3

[Engrossed House Bill 1687]

CRIMINAL DEFENSES--VICTIM IDENTITY

AN ACT Relating to limiting defenses based on victim identity; adding a new section to chapter 9A.08 RCW; adding a new section to chapter 9A.16 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 9A.08 RCW to read as follows:

A defendant does not suffer from diminished capacity based on the discovery of, knowledge about, or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression, or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance towards the defendant, or in which the defendant and victim dated or had a romantic or sexual relationship.

NEW SECTION. Sec. 2. A new section is added to chapter 9A.16 RCW to read as follows:

A person is not justified in using force against another based on the discovery of, knowledge about, or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression, or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance towards the defendant, or in which the defendant and victim dated or had a romantic or sexual relationship.

NEW SECTION. Sec. 3. This act may be known and cited as the Nikki Kuhnhausen act.

Passed by the House February 12, 2020.

Passed by the Senate February 26, 2020.

Approved by the Governor March 5, 2020.

Filed in Office of Secretary of State March 5, 2020.

CHAPTER 4

[Engrossed House Bill 1552]

HEALTH CARRIER PROVIDER CREDENTIALING

AN ACT Relating to health care provider credentialing by health carriers; amending RCW 48.43.750; adding a new section to chapter 48.43 RCW; adding a new section to chapter 74.09 RCW; and declaring an emergency.

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

Sec. 1. RCW 48.43.750 and 2016 c 123 s 1 are each amended to read as follows:

(1)(a) A health carrier (~~shall~~) must use the database selected pursuant to RCW 48.165.035 to accept and manage credentialing applications from health care providers. A health carrier may not require a health care provider to submit credentialing information in any format other than through the database selected pursuant to RCW 48.165.035.

(b) Effective June 1, 2018, a health carrier shall make a determination approving or denying a credentialing application submitted to the carrier no later than ninety days after receiving a complete application from a health care provider.

(c) Effective June 1, 2020, a health carrier shall make a determination approving or denying a credentialing application submitted to the carrier no later than ninety days after receiving a complete application from a health care provider. All determinations made by a health carrier in approving or denying credentialing applications must average no more than sixty days.

(d) This section does not require health carriers to approve a credentialing application or to place providers into a network.

(2) This section does not apply to health care entities that utilize credentialing delegation arrangements in the credentialing of their health care providers with health carriers.

(3) For purposes of this section, "credentialing" means the collection, verification, and assessment of whether a health care provider meets relevant licensing, education, and training requirements.

(4) Nothing in this section creates an oversight or enforcement duty on behalf of the office of the insurance commissioner against a health carrier for failure to comply with the terms of this section.

NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43 RCW to read as follows:

(1) If a carrier approves a health care provider's credentialing application, upon completion of the credentialing process, the carrier must reimburse a health care provider under the following circumstances:

(a) When credentialing a new health care provider through a new provider contract, the carrier must reimburse the health care provider for covered services provided to the carrier's enrollee retroactively to the date of contract effectiveness if the credentialing process extends beyond the effective date of the new contract.

(b) When credentialing a provider to be added to an approved and in-use provider contract where a relationship existed between the carrier and the health care provider or the entity for whom the health care provider is employed or engaged at the time the health care provider submitted the completed

credentialing application, the carrier must reimburse the health care provider for covered health care services provided to the carrier's enrollees during the credentialing process beginning when the health care provider submitted a completed credentialing application to the carrier.

(2) The health carrier must reimburse the health care provider at the contracted rate for the applicable health benefit plan that the health care provider would have been paid at the time the services were provided if the health care provider were fully credentialed by the carrier.

(3) Nothing in this section requires reimbursement of health care provider-rendered services that are not benefits or services covered by the health carrier's health benefit plan.

(4) Nothing in this section requires a health carrier to pay reimbursement for any covered medical services provided by a health care provider applicant if the health care provider's credentialing application is not approved or if the carrier and health care provider do not enter into a contractual relationship.

NEW SECTION. Sec. 3. A new section is added to chapter 74.09 RCW to read as follows:

(1) In order to protect patients and ensure that they benefit from seamless quality care when contracted providers are absent from their practices or when there is a temporary vacancy in a position while a hospital, rural health clinic, or rural provider is recruiting to meet patient demand, hospitals, rural health clinics, and rural providers may use substitute providers to provide services. Medicaid managed care organizations must allow for the use of substitute providers and provide payment consistent with the provisions in this section.

(2) Hospitals, rural health clinics, and rural providers that are contracted with a medicaid managed care organization may use substitute providers that are not contracted with a managed care organization when:

(a) A contracted provider is absent for a limited period of time due to vacation, illness, disability, continuing medical education, or other short-term absence; or

(b) A contracted hospital, rural health clinic, or rural provider is recruiting to fill an open position.

(3) For a substitute provider providing services under subsection (2)(a) of this section, a contracted hospital, rural health clinic, or rural provider may bill and receive payment for services at the contracted rate under its contract with the managed care organization for up to sixty days.

(4) To be eligible for reimbursement under this section for services provided on behalf of a contracted provider for greater than sixty days, a substitute provider must enroll in a medicaid managed care organization. Enrollment of a substitute provider in a medicaid managed care organization is effective on the later of:

(a) The date the substitute provider filed an enrollment application that was subsequently approved; or

(b) The date the substitute provider first began providing services at the hospital, rural health clinic, or rural provider.

(5) A substitute provider who enrolls with a medicaid managed care organization may not bill under subsection (4) of this section for any services billed to the medicaid managed care organization pursuant to subsection (3) of this section.

(6) Nothing in this section obligates a managed care organization to enroll any substitute provider who requests enrollment if they do not meet the organizations enrollment criteria.

(7) For purposes of this section:

(a) "Circumstances precluded enrollment" means that the provider has met all program requirements including state licensure during the thirty-day period before an application was submitted and no final adverse determination precluded enrollment. If a final adverse determination precluded enrollment during this thirty-day period, the contractor shall only establish an effective billing date the day after the date that the final adverse action was resolved, as long as it is not more than thirty days prior to the date on which the application was submitted.

(b) "Contracted provider" means a provider who is contracted with a medicaid managed care organization.

(c) "Hospital" means a facility licensed under chapter 70.41 or 71.12 RCW.

(d) "Rural health clinic" means a federally designated rural health clinic.

(e) "Rural provider" means physicians licensed under chapter 18.71 RCW, osteopathic physicians and surgeons licensed under chapter 18.57 RCW, podiatric physicians and surgeons licensed under chapter 18.22 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physician assistants licensed under chapter 18.57A RCW, and advanced registered nurse practitioners licensed under chapter 18.79 RCW, who are located in a rural county as defined in RCW 82.14.370.

(f) "Substitute provider" includes physicians licensed under chapter 18.71 RCW, osteopathic physicians and surgeons licensed under chapter 18.57 RCW, podiatric physicians and surgeons licensed under chapter 18.22 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physician assistants licensed under chapter 18.57A RCW, and advanced registered nurse practitioners licensed under chapter 18.79 RCW.

NEW SECTION. **Sec. 4.** Section 3 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 March 9, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 17, 2020.

Filed in Office of Secretary of State March 17, 2020.

CHAPTER 5

[Engrossed Substitute House Bill 2099]

INVOLUNTARY TREATMENT ACT--VIDEO TECHNOLOGY

AN ACT Relating to the use of video technology under the involuntary treatment act; amending RCW 71.05.150, 71.05.150, 71.05.153, and 71.05.153; reenacting and amending RCW 71.05.020; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 71.05.020 and 2019 c 446 s 2, 2019 c 444 s 16, and 2019 c 325 s 3001 are each reenacted and amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(8) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(9) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(10) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(11) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(12) "Department" means the department of health;

(13) "Designated crisis responder" means a mental health professional appointed by the county or an entity appointed by the county, to perform the duties specified in this chapter;

(14) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other

developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(16) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(17) "Director" means the director of the authority;

(18) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(19) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(20) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(21) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(22) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(23) "Hearing" means any proceeding conducted in open court. For purposes of this chapter, at any hearing the petitioner, the respondent, the witnesses, and the presiding judicial officer may be present and participate either in person or by video, as determined by the court. The term "video" as used herein shall include any functional equivalent. At any hearing conducted by video, the technology used must permit the judicial officer, counsel, all parties, and the witnesses to be able to see, hear, and speak, when authorized, during the hearing; to allow attorneys to use exhibits or other materials during the hearing; and to allow respondent's counsel to be in the same location as the respondent unless otherwise requested by the respondent or the respondent's counsel. Witnesses in a proceeding may also appear in court through other means, including telephonically, pursuant to the requirements of superior court civil rule

43. Notwithstanding the foregoing, the court, upon its own motion or upon a motion for good cause by any party, may require all parties and witnesses to participate in the hearing in person rather than by video. In ruling on any such motion, the court may allow in-person or video testimony; and the court may consider, among other things, whether the respondent's alleged mental illness affects the respondent's ability to perceive or participate in the proceeding by video;

(24) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction;

(25) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(26) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a mental disorder or substance use disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

(27) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(28) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

(29) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(30) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(31) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health and substance use disorder service providers under RCW 71.05.130;

(32) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

(33) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(34) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(35) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(36) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(37) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(38) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders or substance use disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure withdrawal management and stabilization facilities as defined in this section, and correctional facilities operated by state and local governments;

(39) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(40) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW;

(41) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders;

(42) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(43) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(44) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(45) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(46) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(47) "Release" means legal termination of the commitment under the provisions of this chapter;

(48) "Resource management services" has the meaning given in chapter 71.24 RCW;

(49) "Secretary" means the secretary of the department of health, or his or her designee;

(50) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(51) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(52) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(53) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(54) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(55) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(56) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(57) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(58) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(59) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

Sec. 2. RCW 71.05.150 and 2019 c 446 s 4 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, substance use disorder, or both presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient behavioral health treatment; the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, or approved substance use disorder treatment program. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview.

(2)(a) An order to detain a person with a mental disorder to a designated evaluation and treatment facility, or to detain a person with a substance use disorder to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, for not more than a seventy-two-hour evaluation and treatment period may be issued by a judge of the superior court upon request of a designated crisis responder, subject to (d) of this subsection, whenever it appears to the satisfaction of a judge of the superior court:

(i) That there is probable cause to support the petition; and
 (ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(d) A court may not issue an order to detain a person to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program unless there is an available secure withdrawal management and stabilization facility or approved substance use disorder treatment program that has adequate space for the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

Sec. 3. RCW 71.05.150 and 2019 c 446 s 5 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, substance use disorder, or both presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient behavioral health treatment; the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, or approved substance use disorder treatment program. The interview performed by the designated

crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview.

(2)(a) An order to detain a person with a mental disorder to a designated evaluation and treatment facility, or to detain a person with a substance use disorder to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, for not more than a seventy-two-hour evaluation and treatment period may be issued by a judge of the superior court upon request of a designated crisis responder whenever it appears to the satisfaction of a judge of the superior court:

(i) That there is probable cause to support the petition; and

(ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

Sec. 4. RCW 71.05.153 and 2019 c 446 s 6 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(2) When a designated crisis responder receives information alleging that a person, as the result of substance use disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken, into emergency custody in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program for not more than seventy-two hours as described in RCW 71.05.180, if a secure withdrawal management and stabilization facility or approved substance use disorder treatment program is available and has adequate space for the person.

(3)(a) Subject to (b) of this subsection, a peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(i) Pursuant to subsection (1) or (2) of this section; or

(ii) When he or she has reasonable cause to believe that such person is suffering from a mental disorder or substance use disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(b) A peace officer's delivery of a person, based on a substance use disorder, to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program is subject to the availability of a secure withdrawal management and stabilization facility or approved substance use disorder treatment program with adequate space for the person.

(4) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program by peace officers pursuant to subsection (3) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

(5) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. The interview

performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the mental health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

(6) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated mental health professional has totally disregarded the requirements of this section.

Sec. 5. RCW 71.05.153 and 2019 c 446 s 7 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(2) When a designated crisis responder receives information alleging that a person, as the result of substance use disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken, into emergency custody in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program for not more than seventy-two hours as described in RCW 71.05.180.

(3) A peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) or (2) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a mental disorder or substance use disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(4) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected

to operate as an involuntary facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program by peace officers pursuant to subsection (3) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

(5) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the mental health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

(6) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated mental health professional has totally disregarded the requirements of this section.

NEW SECTION. Sec. 6. Sections 2 and 4 of this act expire July 1, 2026.

NEW SECTION. Sec. 7. Sections 3 and 5 of this act take effect July 1, 2026.

Passed by the House March 7, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 17, 2020.

Filed in Office of Secretary of State March 17, 2020.

CHAPTER 6

[House Bill 2739]

SHARED LEAVE PROGRAM--VARIOUS PROVISIONS

AN ACT Relating to adjusting certain requirements of the shared leave program; amending RCW 41.04.655 and 41.04.665; adding a new section to chapter 41.04 RCW; and declaring an emergency.

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

Sec. 1. RCW 41.04.655 and 2018 c 39 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.04.650 through 41.04.670, 28A.400.380, and section 7, chapter 93, Laws of 1989.

(1) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault, between family or household members as defined in RCW 26.50.010; (b) sexual assault of one family or household member by another family or household member; or (c) stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

(2) "Employee" means any employee of the state, including employees of school districts and educational service districts, who are entitled to accrue sick leave or annual leave and for whom accurate leave records are maintained.

(3) "Parental leave" means leave to bond and care for a newborn child after birth or to bond and care for a child after placement for adoption or foster care(= for a period of up to sixteen weeks after the birth or placement)).

(4) "Pregnancy disability" means a pregnancy-related medical condition or miscarriage.

(5) "Program" means the leave sharing program established in RCW 41.04.660.

(6) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty including state-ordered active duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(7) "Sexual assault" has the same meaning as set forth in RCW 70.125.030.

(8) "Stalking" has the same meaning as set forth in RCW 9A.46.110.

(9) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts.

(10) "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard, and any other category of persons designated by the president of the United States in time of war or national emergency.

(11) "Victim" means a person against whom domestic violence, sexual assault, or stalking has been committed as defined in this section.

Sec. 2. RCW 41.04.665 and 2019 c 64 s 17 are each amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a)(i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(ii) The employee has been called to service in the uniformed services;

(iii) The employee is a current member of the uniformed services or is a veteran as defined under RCW 41.04.005, and is attending medical appointments or treatments for a service connected injury or disability;

(iv) The employee is a spouse of a current member of the uniformed services or a veteran as defined under RCW 41.04.005, who is attending medical

appointments or treatments for a service connected injury or disability and requires assistance while attending appointment or treatment;

(v) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;

(vi) The employee is a victim of domestic violence, sexual assault, or stalking;

(vii) The employee needs the time for parental leave; or

(viii) The employee is sick or temporarily disabled because of pregnancy disability;

(b) The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequence of domestic violence, sexual assault, temporary layoff under section 3(5), chapter 32, Laws of 2010 1st sp. sess., or stalking has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(c) The employee's absence and the use of shared leave are justified;

(d) The employee has depleted or will shortly deplete his or her:

(i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection;

(ii) Annual leave and paid military leave allowed under RCW 38.40.060 if he or she qualifies under (a)(ii) of this subsection;

(iii) Annual leave if he or she qualifies under (a) (v) or (vi) of this subsection; or

(iv) Annual leave and sick leave reserves if the employee qualifies under (a)(vii) or (viii) of this subsection(~~However, the employee is not required to deplete all of his or her annual leave and sick leave and can maintain up to forty hours of annual leave and forty hours of sick leave in reserve~~);

(e) The employee has abided by agency rules regarding:

(i) Sick leave use if he or she qualifies under (a)(i), (vi), (vii), or (viii) of this subsection; or

(ii) Military leave if he or she qualifies under (a)(ii) of this subsection; and

(f) (~~The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if he or she qualifies under (a)(i) of this subsection~~) (i) Until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring a state of emergency in the state of Washington, or any amendment thereto, whichever is later, an agency head may permit an employee to receive shared leave under this section if the employee, or a relative or household member, is isolated or quarantined as recommended, requested, or ordered by a public health official or health care provider as a result of suspected or confirmed infection with or exposure to the 2019 novel coronavirus (COVID-19). An agency head may permit use of shared leave under this subsection (1)(f) without considering the requirements of (a) through (e) of this subsection.

(ii) The office of the governor must provide notice of the expiration of proclamation 20-05, or any amendment thereto, whichever is later, to the chief

clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the office of the governor.

(2)(a) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, the agency head may not prevent an employee from using shared leave intermittently or on nonconsecutive days so long as the leave has not been returned under subsection (10) of this section. In addition, an employee shall not receive a total of more than five hundred twenty-two days of leave, except that, a supervisor may authorize leave in excess of five hundred twenty-two days in extraordinary circumstances for an employee qualifying for the shared leave program because he or she is suffering from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature. Shared leave received under the uniformed service shared leave pool in RCW 41.04.685 is not included in this total.

(b) An employee receiving industrial insurance wage replacement benefits may not receive greater than twenty-five percent of his or her base salary from the receipt of shared leave under this section.

(3) The agency head must allow employees who are veterans, as defined under RCW 41.04.005, and their spouses, to access shared leave from the veterans' in-state service shared leave pool upon employment.

(4) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (4)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(5) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave

accrued pursuant to RCW 28A.400.300(1)(b) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(6) Transfers of leave made by an agency head under subsections (4) and (5) of this section shall not exceed the requested amount.

(7) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency.

(8) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(9) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(10)(a) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Unused shared leave may not be returned until one of the following occurs:

(i) The agency head receives from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved; or

(ii) The employee is released to full-time employment; has not received additional medical treatment for his or her current condition or any other qualifying condition for at least six months; and the employee's doctor has declined, in writing, the employee's request for a statement indicating the employee's condition has been resolved.

(b) If a shared leave account is closed and an employee later has a need to use shared leave due to the same condition listed in the closed account, the agency head must approve a new shared leave request for the employee.

(c) To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(11) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

(12) The director of financial management may adopt rules as necessary to implement subsection (2) of this section.

(13) For the purposes of this section, "shortly deplete" means that the employee will have forty hours or less of the applicable leave types under subsection (1)(d) of this section. However, the employee is not required to deplete all of the employee's leave and can maintain up to forty hours of the applicable leave types in reserve.

NEW SECTION. Sec. 3. A new section is added to chapter 41.04 RCW to read as follows:

(1) Parental leave received under RCW 41.04.665 must be used within the sixteen weeks immediately after birth or placement, except as provided in subsection (2) of this section.

(2) If a person receiving parental leave also receives leave due to a pregnancy disability, the parental leave may be taken in the sixteen weeks immediately after the pregnancy disability leave. However, parental leave may not be used more than one year after birth.

NEW SECTION. Sec. 4. Section 2 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 March 10, 2020.

Passed by the Senate March 10, 2020.

Approved by the Governor March 17, 2020.

Filed in Office of Secretary of State March 17, 2020.

CHAPTER 7

[Engrossed House Bill 2965]

NOVEL CORONAVIRUS

AN ACT Relating to the state's response to the novel coronavirus; amending RCW 38.52.105, 50.20.010, and 28A.230.090; adding a new section to chapter 50.16 RCW; adding a new section to chapter 50.29 RCW; creating new sections; making appropriations; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. The sum of one hundred seventy-five million dollars is appropriated from the budget stabilization account for the fiscal year ending June 30, 2020, and is provided solely for expenditure into the disaster response account, from which it may be appropriated solely for state and local government and federally recognized tribes' response to the novel coronavirus pursuant to the gubernatorial declaration of emergency of February 29, 2020. For purposes of RCW 43.88.055(4), the appropriation in this section does not alter the requirement to balance in the ensuing biennium.

NEW SECTION. Sec. 2. The sum of one hundred seventy-five million dollars is appropriated from the disaster response account and the sum of twenty-five million dollars is appropriated from the general fund—federal to the office of financial management for the fiscal biennium ending June 30, 2021,

and are provided solely for allotment to state agencies and for distribution to local governments and federally recognized tribes for response to the novel coronavirus pursuant to the gubernatorial declaration of emergency of February 29, 2020. The appropriations in this section are subject to the following conditions and limitations:

(1) The office of financial management must provide monthly updates on spending from this appropriation to the fiscal committees of the legislature.

(2) Funding from this section may not be used to supplant existing federal, state, tribal, and local funds for services and activities that will assist in the response to the novel coronavirus.

(3) Agencies, federally recognized tribes, and local governments must demonstrate maximum use of available federal funds for novel coronavirus response and recovery efforts before seeking funding from this appropriation. If an agency, federally recognized tribe, or local government subsequently receives reimbursement from federal sources of amounts spent from the appropriation in this section, the agency, federally recognized tribe, or local government must remit the federal funding to the state treasurer for reimbursement to the budget stabilization account.

(4) By July 1, 2021, the office of financial management must certify to the state treasurer the amount of any unobligated moneys in the disaster response account that are attributable to the budget stabilization account appropriation in section 1 of this act, and the treasurer must transfer those moneys back to the budget stabilization account.

(5) In order to facilitate the monthly reporting required by subsection (1) of this section and to increase transparency, the office of financial management must create unique appropriation and expenditure codes to be used in the statewide accounting and financial reporting system that must be used by state agencies and institutions of higher education to separately identify state spending by the appropriations in this act and for other unanticipated spending in response to the coronavirus (COVID-19) outbreak funded by appropriations in the omnibus operating appropriations act.

NEW SECTION. Sec. 3. The sum of twenty-five million dollars is appropriated from the budget stabilization account for the fiscal year ending June 30, 2020, and is provided solely for expenditure into the COVID-19 unemployment account for the purposes described in section 5 of this act. For purposes of RCW 43.88.055(4), the appropriation in this section does not alter the requirement to balance in the ensuing biennium.

NEW SECTION. Sec. 4. A new section is added to chapter 50.16 RCW to read as follows:

(1) The COVID-19 unemployment account is created in the custody of the state treasurer. Revenues to the account shall consist of appropriations and transfers by the legislature and all other funding directed for deposit into the account. Only the commissioner of the employment security department or the commissioner's designee may authorize expenditures from the account. Expenditures from the account may be used only for reimbursing the unemployment trust fund account for unemployment benefits paid to the approved employees of employers approved for such reimbursement pursuant to

section 5 of this act. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Any federal funding or relief for novel coronavirus that could be used for the purposes of section 5 of this act must be used first before spending from the account. Additionally, if the employment security department subsequently receives reimbursements from federal sources for amounts spent from the account, the department must remit the federal funding to the state treasurer for reimbursement to the budget stabilization account. If federal law or rules would prevent such remittance, the department must notify the office of financial management and the fiscal committees of the legislature within thirty days of receipt of the reimbursement.

(3) By July 1, 2021, the commissioner must certify to the state treasurer the amount of any unobligated moneys in the COVID-19 unemployment account that are attributable to the budget stabilization account appropriation in section 3 of this act, and the treasurer must transfer those moneys back to the budget stabilization account.

NEW SECTION. Sec. 5. A new section is added to chapter 50.29 RCW to read as follows:

(1) By September 30, 2020, a contribution paying employer may submit an application to the employment security department to have the approved benefits paid to approved employees be reimbursed by the COVID-19 unemployment account instead of charged to the employer's experience rating account. The application must be submitted in a form and manner approved by the department through rule.

(2) The department should not approve an application if the benefits paid will not otherwise be charged to the employer's experience rating account or if the employer was otherwise eligible to receive relief of benefit charges.

(3) If the department approves an employer's application, the department will not charge the forgiven benefits to the employer's experience rating account. The commissioner shall instead transfer from the COVID-19 unemployment account to the unemployment trust fund account an amount equal to the forgiven benefits.

(4) If the department rejects an employer's application, the department shall present the employer with the reasons why the application was rejected. The reasons for the rejection are final and nonappealable.

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

(a) "Approved employee" means an employee who:

(i) Was temporarily laid off as a direct or indirect consequence of an outbreak of COVID-19;

(ii) Was approved by the department to be on standby pursuant to rules adopted by the department;

(iii) Has returned to the same employment with the employer the employee had prior to the temporary unemployment; and

(iv) Meets other criteria the department may establish by rule.

(b) "Approved benefits" means benefits paid to an approved employee while the approved employee was on standby pursuant to rules adopted by the department.

(c) "Total approved benefits" means the sum total of all approved benefits paid to all approved employees.

(d) "Forgiveness ratio" is computed by dividing the amount of money in the COVID-19 unemployment account by the total approved benefits. The forgiveness ratio cannot be more than 1.

(e) "Forgiven benefits" means the approved benefits for an individual employer multiplied by the forgiveness ratio.

(6) The department shall adopt such rules as are necessary to carry out the purposes of this section.

(7) This section expires July 30, 2021.

Sec. 6. RCW 38.52.105 and 2019 c 415 s 956 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, including response by state and local government and federally recognized tribes to the novel coronavirus pursuant to the gubernatorial declaration of emergency of February 29, 2020, and to reimburse the workers' compensation funds and self-insured employers under RCW 51.16.220. During the 2017-2019 and 2019-2021 fiscal biennia, expenditures from the disaster response account may be used for military department operations and to support wildland fire suppression preparedness, prevention, and restoration activities by state agencies and local governments. During the 2017-2019 and 2019-2021 fiscal biennia, the legislature may direct the treasurer to make transfers of moneys in the disaster response account to the state general fund. It is the intent of the legislature that these policies will be continued in subsequent fiscal biennia.

NEW SECTION. Sec. 7. (1) The department of social and health services is authorized to determine nursing facility payments to adequately resource facilities responding to the novel coronavirus outbreak pursuant to the gubernatorial declaration of emergency of February 29, 2020. The medicaid payments provided to nursing facilities in response to this state of emergency shall be determined by the department as appropriate to address the immediate safety needs of Washington state citizens and shall not be subject to this chapter's medicaid methodology. Any nursing facility payment made under this section shall not be included in the calculation of the annual statewide weighted average nursing facility payment rate.

(2) This section expires June 30, 2021.

Sec. 8. RCW 50.20.010 and 2019 c 50 s 1 are each amended to read as follows:

(1) An unemployed individual shall be eligible to receive waiting period credits or benefits with respect to any week in his or her eligibility period only if the commissioner finds that:

(a) He or she has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulation as the commissioner may prescribe, except that the commissioner may by regulation waive or alter either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or

situations with respect to which the commissioner finds that the compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title;

(b) He or she has filed an application for an initial determination and made a claim for waiting period credit or for benefits in accordance with the provisions of this title;

(c) He or she is able to work, and is available for work in any trade, occupation, profession, or business for which he or she is reasonably fitted.

(i) To be available for work, an individual must be ready, able, and willing, immediately to accept any suitable work which may be offered to him or her and must be actively seeking work pursuant to customary trade practices and through other methods when so directed by the commissioner or the commissioner's agents. If a labor agreement or dispatch rules apply, customary trade practices must be in accordance with the applicable agreement or rules.

(ii) Until June 30, 2021, an individual under quarantine or isolation, as defined by the department of health, as directed by a public health official during the novel coronavirus outbreak pursuant to the gubernatorial declaration of emergency of February 29, 2020, will meet the requirements of this subsection (1)(c) if the individual is able to perform, available to perform, and actively seeking work which can be performed while under quarantine or isolation.

(iii) For the purposes of this subsection, "customary trade practices" includes compliance with an electrical apprenticeship training program that includes a recognized referral system under apprenticeship program standards approved by the Washington state apprenticeship and training council;

(d) He or she has been unemployed for a waiting period of one week;

(e) He or she participates in reemployment services if the individual has been referred to reemployment services pursuant to the profiling system established by the commissioner under RCW 50.20.011, unless the commissioner determines that:

(i) The individual has completed such services; or

(ii) There is justifiable cause for the claimant's failure to participate in such services; and

(f) As to weeks beginning after March 31, 1981, which fall within an extended benefit period as defined in RCW 50.22.010, the individual meets the terms and conditions of RCW 50.22.020 with respect to benefits claimed in excess of twenty-six times the individual's weekly benefit amount.

(2) An individual's eligibility period for regular benefits shall be coincident to his or her established benefit year. An individual's eligibility period for additional or extended benefits shall be the periods prescribed elsewhere in this title for such benefits.

NEW SECTION. Sec. 9. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 10. (1)(a) Recognizing that schools and districts throughout Washington have different needs and resources to respond to the impact of the novel coronavirus (COVID-19) outbreak, within existing resources, the state board of education may administer an emergency waiver program to grant local education agencies and private schools flexibility so that students in the graduating class of 2020 or earlier who were on track to graduate before the gubernatorial declaration of emergency of February 29, 2020, and any subsequent amendments to that proclamation, are not negatively impacted by measures taken by the local education agency or private school in response to the novel coronavirus (COVID-19).

(b) Consistent with the intent of the emergency waiver program, the state board of education may adopt rules to allow:

(i) School districts, charter schools established under chapter 28A.710 RCW, and tribal compact schools operated according to the terms of state-tribal education compacts authorized under chapter 28A.715 RCW to apply to the state board of education for a waiver of high school graduation requirements or equivalencies established under RCW 28A.230.090 for students in the graduating class of 2020 or earlier who cannot meet the statewide minimum credit and subject area graduation requirements due to school closures related to the novel coronavirus (COVID-19). The state board of education may approve waivers that meet criteria including demonstration of a good faith effort to address core course requirements and credit deficiencies through other mechanisms; and

(ii) The state board of education to waive provisions relating to the number of instructional hours, the number of school days, credit-based graduation requirements, and other provisions for the 2019-20 school year for private schools established under chapter 28A.195 RCW that close due to the novel coronavirus (COVID-19).

(2) This section expires July 31, 2020.

Sec. 11. RCW 28A.230.090 and 2019 c 252 s 103 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students, except as provided in RCW 28A.230.122 and 28A.655.250 and except those equivalencies established by local high schools or school districts under RCW 28A.230.097. The purpose of a high school diploma is to declare that a student is ready for success in postsecondary education, gainful employment, and citizenship, and is equipped with the skills to be a lifelong learner.

(a) Any course in Washington state history and government used to fulfill high school graduation requirements shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(b) Except as provided otherwise in this subsection, the certificate of academic achievement requirements under RCW 28A.655.061 or the certificate of individual achievement requirements under RCW 28A.155.045 are required for graduation from a public high school but are not the only requirements for graduation. The requirement to earn a certificate of academic achievement to qualify for graduation from a public high school concludes with the graduating class of 2019. The obligation of qualifying students to earn a certificate of

individual achievement as a prerequisite for graduation from a public high school concludes with the graduating class of 2021.

(c)(i) Each student must have a high school and beyond plan to guide the student's high school experience and inform course taking that is aligned with the student's goals for education or training and career after high school.

(ii)(A) A high school and beyond plan must be initiated for each student during the seventh or eighth grade. In preparation for initiating that plan, each student must first be administered a career interest and skills inventory.

(B) For students with an individualized education program, the high school and beyond plan must be developed in alignment with their individualized education program. The high school and beyond plan must be developed in a similar manner and with similar school personnel as for all other students.

(iii)(A) The high school and beyond plan must be updated to reflect high school assessment results in RCW 28A.655.070(3)(b) and to review transcripts, assess progress toward identified goals, and revised as necessary for changing interests, goals, and needs. The plan must identify available interventions and academic support, courses, or both, that are designed for students who are not on track to graduate, to enable them to fulfill high school graduation requirements. Each student's high school and beyond plan must be updated to inform junior year course taking.

(B) For students with an individualized education program, the high school and beyond plan must be updated in alignment with their school to postsecondary transition plan. The high school and beyond plan must be updated in a similar manner and with similar school personnel as for all other students.

(iv) School districts are encouraged to involve parents and guardians in the process of developing and updating the high school and beyond plan, and the plan must be provided to the students' parents or guardians in their native language if that language is one of the two most frequently spoken non-English languages of students in the district. Nothing in this subsection (1)(c)(iv) prevents districts from providing high school and beyond plans to parents and guardians in additional languages that are not required by this subsection.

(v) All high school and beyond plans must, at a minimum, include the following elements:

(A) Identification of career goals, aided by a skills and interest assessment;

(B) Identification of educational goals;

(C) Identification of dual credit programs and the opportunities they create for students, including eligibility for automatic enrollment in advanced classes under RCW 28A.320.195, career and technical education programs, running start programs, AP courses, international baccalaureate programs, and college in the high school programs;

(D) Information about the college bound scholarship program established in chapter 28B.118 RCW;

(E) A four-year plan for course taking that:

(I) Includes information about options for satisfying state and local graduation requirements;

(II) Satisfies state and local graduation requirements;

(III) Aligns with the student's secondary and postsecondary goals, which can include education, training, and career;

(IV) Identifies course sequences to inform academic acceleration, as described in RCW 28A.320.195 that include dual credit courses or programs and are aligned with the student's goals; and

(V) Includes information about the college bound scholarship program;

(F) Evidence that the student has received the following information on federal and state financial aid programs that help pay for the costs of a postsecondary program:

(I) Information about the documentation necessary for completing the applications; application timeliness and submission deadlines; the importance of submitting applications early; information specific to students who are or have been in foster care; information specific to students who are, or are at risk of being, homeless; information specific to students whose family member or guardians will be required to provide financial and tax information necessary to complete applications; and

(II) Opportunities to participate in sessions that assist students and, when necessary, their family members or guardians, fill out financial aid applications; and

(G) By the end of the twelfth grade, a current resume or activity log that provides a written compilation of the student's education, any work experience, and any community service and how the school district has recognized the community service pursuant to RCW 28A.320.193.

(d) A decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level. Effective with the graduating class of 2015, the state board of education may not establish a requirement for students to complete a culminating project for graduation. A district may establish additional, local requirements for a high school and beyond plan to serve the needs and interests of its students and the purposes of this section.

(e)(i) The state board of education shall adopt rules to implement the career and college ready graduation requirement proposal adopted under board resolution on November 10, 2010, and revised on January 9, 2014, to take effect beginning with the graduating class of 2019 or as otherwise provided in this subsection (1)(e). The rules must include authorization for a school district to waive up to two credits for individual students based on a student's circumstances, provided that none of the waived credits are identified as mandatory core credits by the state board of education. School districts must adhere to written policies authorizing the waivers that must be adopted by each board of directors of a school district that grants diplomas. The rules must also provide that the content of the third credit of mathematics and the content of the third credit of science may be chosen by the student based on the student's interests and high school and beyond plan with agreement of the student's parent or guardian or agreement of the school counselor or principal. The limitations on the ability of a school district to grant waivers under this subsection (1)(e)(i) shall not apply in circumstances where a district is granted flexibility from state requirements under an emergency waiver program established in section 10 of this act.

(ii) School districts may apply to the state board of education for a waiver to implement the career and college ready graduation requirement proposal beginning with the graduating class of 2020 or 2021 instead of the graduating

class of 2019. In the application, a school district must describe why the waiver is being requested, the specific impediments preventing timely implementation, and efforts that will be taken to achieve implementation with the graduating class proposed under the waiver. The state board of education shall grant a waiver under this subsection (1)(e) to an applying school district at the next subsequent meeting of the board after receiving an application.

(iii) A school district must update the high school and beyond plans for each student who has not earned a score of level 3 or level 4 on the middle school mathematics assessment identified in RCW 28A.655.070 by ninth grade, to ensure that the student takes a mathematics course in both ninth and tenth grades. This course may include career and technical education equivalencies in mathematics adopted pursuant to RCW 28A.230.097.

(2)(a) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(b) The state board shall reevaluate the graduation requirements for students enrolled in vocationally intensive and rigorous career and technical education programs, particularly those programs that lead to a certificate or credential that is state or nationally recognized. The purpose of the evaluation is to ensure that students enrolled in these programs have sufficient opportunity to earn a certificate of academic achievement, complete the program and earn the program's certificate or credential, and complete other state and local graduation requirements.

(c) The state board shall forward any proposed changes to the high school graduation requirements to the education committees of the legislature for review. The legislature shall have the opportunity to act during a regular legislative session before the changes are adopted through administrative rule by the state board. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized and funded by the legislature through the omnibus appropriations act or other enacted legislation.

(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) Unless requested otherwise by the student and the student's family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit,

because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit.

(6) At the college or university level, five quarter or three semester hours equals one high school credit.

NEW SECTION. Sec. 12. Section 11 of this act expires July 31, 2020.

NEW SECTION. Sec. 13. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and this finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 14. 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 12, 2020.

Passed by the Senate March 12, 2020.

Approved by the Governor March 17, 2020.

Filed in Office of Secretary of State March 17, 2020.

CHAPTER 8

[Engrossed Substitute Senate Bill 6189]

SCHOOL EMPLOYEES' BENEFITS BOARD--COVERAGE ELIGIBILITY

AN ACT Relating to school employees' benefits board coverage; amending RCW 28A.300.615; adding new sections to chapter 41.05 RCW; creating new sections; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The joint legislative audit and review committee shall conduct a study to identify the number and types of part-time school district employees and their eligibility for benefits through the school employees' benefits board. The office of the superintendent of public instruction and the health care authority shall assist in providing any data requested by the joint legislative audit and review committee to conduct the study. The study will seek to identify:

(a) The categories and number of employees who worked full-time and less than full-time during the 2018-19 and 2019-20 school years, including ranges of hours worked, how many of those employees were eligible for employer support for benefits each year, and the amount of employer support provided for benefits. The study must summarize the data by major job category, such as substitute teacher, educational staff associate, paraprofessional, bus driver,

principal, vice principal, and any other major job categories identified during the review;

(b) The number of certificated and classified employees eligible for school employees' benefits board benefits beginning January 1, 2020, and the number who waived medical coverage by district;

(c) The number of certificated and classified school employee benefit units, including estimated benefit units attributable to pupil transportation and special education, funded in the state budget for school employees' benefits board benefits by district.

(2) The joint legislative audit and review committee shall submit the review to the appropriate committees of the legislature by September 1, 2021. The review shall include recommendations for continued and regular data collection that should be incorporated into the superintendent of public instruction's and the health care authority's regular data and reporting systems.

(3) This section expires January 1, 2022.

NEW SECTION. Sec. 2. (1) The health care authority shall conduct an analysis of the impacts of changes to the requirement that school employers remit premiums for employees that waive medical coverage under RCW 41.05.050(4)(d). The analysis shall consider the estimated impacts to the projected future funding rates and the estimated amount billed to each school district based on the following:

(a) A variable rate for employees waiving medical coverage and that are covered under dental, vision, long-term life and disability, and any other benefits not waived;

(b) A policy allowing members to waive coverage for some or all of the employer paid benefits;

(c) Any other options considered by the authority or as recommended by the school employees' benefits board.

(2) The analysis is due to the relevant fiscal committees of the legislature by September 1, 2021.

(3) This section expires June 30, 2022.

Sec. 3. RCW 28A.300.615 and 2016 c 233 s 8 are each amended to read as follows:

(1) By October 1st of each year, a school district must report to the office of the superintendent of public instruction:

(a) The number of substitute teachers hired per school year;

(b) The number of hours worked by each substitute teacher(~~(s hired under RCW 28A.410.252 per school year)~~);

(c) The number of substitute teachers that received benefits under the school employees' benefits board;

(d) The full daily compensation rate per substitute teacher; and

~~((d))~~ (e) The reason for hiring the substitute teacher.

(2) By January 1st of each year, the office of the superintendent of public instruction must post on its web site the information identified in subsection (1) of this section.

NEW SECTION. Sec. 4. A new section is added to chapter 41.05 RCW to read as follows:

Beginning with the 2022 plan year, individuals are limited to a single enrollment in medical, dental, and vision plans among school employees' benefits board and public employees' benefits board plans. However, individuals may be enrolled in both public employees' benefits board and school employees' benefits board plans as long as those enrollments are across different types of plans, such as medical, dental, and vision. The school employees' benefits board and the public employees' benefits board shall adopt policies to reflect this single enrollment requirement.

NEW SECTION. Sec. 5. A new section is added to chapter 41.05 RCW to read as follows:

(1) A school employee eligible as of February 29, 2020, for the employer contribution towards benefits offered by the school employees' benefits board shall maintain their eligibility for the employer contribution under the following circumstances directly related or in response to the governor's February 29, 2020, proclamation of a state of emergency existing in all counties in the state of Washington related to the novel coronavirus (COVID-19):

(a) During any school closures or changes in school operations for the school employee;

(b) While the school employee is quarantined or required to care for a family member, as defined by RCW 49.46.210(2), who is quarantined; and

(c) In order to take care of a child as defined by RCW 49.46.210(2), when the child's:

(i) School is closed;

(ii) Regular day care facility is closed; or

(iii) Regular child care provider is unable to provide services.

(2) Requirements in subsection (1) of this section expires when the governor's state of emergency related to the novel coronavirus (COVID-19) ends.

(3) When regular school operations resume, school employees shall continue to maintain their eligibility for the employer contribution for the remainder of the school year so long as their work schedule returns to the schedule in place before February 29, 2020, or, if there is a change in schedule, so long as the new schedule, had it been in effect at the start of the school year, would have resulted in the employee being anticipated to work the minimum hours to meet benefits eligibility.

(4) Quarantine, as used in subsection (1)(b) includes only periods of isolation required by the federal government, a foreign national government, a state or local public health official, a health care provider, or an employer.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 10, 2020.

Passed by the House March 10, 2020.

Approved by the Governor March 17, 2020.

Filed in Office of Secretary of State March 17, 2020.

CHAPTER 9

[House Bill 1165]

LOW-WATER LANDSCAPING PRACTICES

AN ACT Relating to encouraging low-water landscaping practices as a drought alleviation tool; adding a new section to chapter 64.38 RCW; adding a new section to chapter 64.34 RCW; adding a new section to chapter 64.90 RCW; adding a new section to chapter 39.35D RCW; and creating a new section.

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

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

(a) Water is a finite resource whose importance is heightened during the periodic drought conditions and increased wildfire risk that the state experiences;

(b) The maintenance of lawns of green grass during the summer months for aesthetic purposes can be responsible for a noteworthy portion of summer water use by households; and

(c)(i) In the event of a drought, state law already grants extraordinary powers to the department of ecology to manage water resources and provides for other policy responses to encourage efficient use of the state's limited water supplies;

(ii) However, in certain instances, property association rules do not take into account the public goal of making efficient use of water supplies while also protecting properties from wildfire. These association rules can prohibit private property owners from deciding to use low-water plants or other low-water landscaping practices in place of grass lawns. Association rules can also limit the use of landscaping materials that are both drought resistant and fire ignition resistant, making it difficult to create fire safe, drought resistant landscapes and establish defensible space. Similar laws also sometimes prohibit private property owners from allowing their grass to go dormant and brown.

(2)(a) Therefore, it is the intent of the legislature to empower private property owners and remove an obstacle to water use efficiency by prohibiting unreasonable homeowner association, common interest ownership association, and condominium association restrictions that limit private property owners' ability to deploy low-water landscaping techniques, while also ensuring private property owners' ability to create fire safe landscapes.

(b) It is also the intent of the legislature to encourage the use of landscaping design techniques that meet the highest standards for water efficiency in the design and construction of state-funded buildings.

NEW SECTION. Sec. 2. A new section is added to chapter 64.38 RCW to read as follows:

(1) The governing documents may not prohibit the installation of drought resistant landscaping or wildfire ignition resistant landscaping. However, the governing documents may include reasonable rules regarding the placement and aesthetic appearance of drought resistant landscaping or wildfire ignition resistant landscaping, as long as the rules do not render the use of drought resistant landscaping or wildfire ignition resistant landscaping unreasonably costly or otherwise effectively infeasible.

(2) If a property is located within the geographic designation of an order of a drought condition issued by the department of ecology under RCW 43.83B.405,

an association may not sanction or impose a fine or assessment against an owner, or resident on the owner's property, for reducing or eliminating the watering of vegetation or lawns for the duration of the drought condition order.

(3) Nothing in this section may be construed to prohibit or restrict the establishment and maintenance of a fire buffer within the building ignition zone.

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

(a) "Building ignition zone" means a building and surrounding area up to two hundred feet from the foundation.

(b) "Drought resistant landscaping" means the use of any noninvasive vegetation adapted to arid or dry conditions, stone, or landscaping rock.

(c) "Firewise" means the firewise communities program developed by the national fire protection association, which encourages local solutions for wildfire safety by involving homeowners, community leaders, planners, developers, firefighters, and others in the effort to protect people and property from wildfire risks.

(d) "Wildfire ignition resistant landscaping" includes:

(i) Any landscaping tools or techniques, or noninvasive vegetation, that do not readily ignite from a flame or other ignition source; or

(ii) The use of firewise methods to reduce ignition risk in a building ignition zone.

NEW SECTION. Sec. 3. A new section is added to chapter 64.34 RCW to read as follows:

(1) The declaration of a condominium and any bylaws, rules, and regulations adopted by the association may not prohibit the installation of drought resistant landscaping or wildfire ignition resistant landscaping. However, the declaration or bylaws, rules, and regulations may include reasonable rules regarding the placement and aesthetic appearance of drought resistant landscaping or wildfire ignition resistant landscaping, as long as the rules do not render the use of drought resistant landscaping or wildfire ignition resistant landscaping unreasonably costly or otherwise effectively infeasible.

(2) If a property is located within the geographic designation of an order of a drought condition issued by the department of ecology under RCW 43.83B.405, an association may not impose a fine or assessment against an owner, or resident on the owner's property, for reducing or eliminating the watering of vegetation or lawns for the duration of the drought condition order.

(3) Nothing in this section may be construed to prohibit or restrict the establishment and maintenance of a fire buffer within the building ignition zone.

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

(a) "Building ignition zone" means a building and surrounding area up to two hundred feet from the foundation.

(b) "Drought resistant landscaping" means the use of any noninvasive vegetation adapted to arid or dry conditions, stone, or landscaping rock.

(c) "Firewise" means the firewise communities program developed by the national fire protection association, which encourages local solutions for wildfire safety by involving homeowners, community leaders, planners, developers, firefighters, and others in the effort to protect people and property from wildfire risks.

(d) "Wildfire ignition resistant landscaping" includes:

- (i) Any landscaping tools or techniques, or noninvasive vegetation, that do not readily ignite from a flame or other ignition source; or
- (ii) The use of firewise methods to reduce ignition risk in a building ignition zone.

NEW SECTION. Sec. 4. A new section is added to chapter 64.90 RCW to read as follows:

(1) The declaration of a common interest ownership and any governing documents adopted by an association may not prohibit the installation of drought resistant landscaping or wildfire ignition resistant landscaping. However, the declaration or governing documents may include reasonable rules regarding the placement and aesthetic appearance of drought resistant landscaping or wildfire ignition resistant landscaping, as long as the rules do not render the use of drought resistant landscaping or wildfire ignition resistant landscaping unreasonably costly or otherwise effectively infeasible.

(2) If a property is located within the geographic designation of an order of a drought condition issued by the department of ecology under RCW 43.83B.405, an association may not impose a fine or assessment against an owner, or resident on the owner's property, for reducing or eliminating the watering of vegetation or laws for the duration of the drought condition order.

(3) Nothing in this section may be construed to prohibit or restrict the establishment and maintenance of a fire buffer within the building ignition zone.

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

(a) "Building ignition zone" means a building and surrounding area up to two hundred feet from the foundation.

(b) "Drought resistant landscaping" means the use of any noninvasive vegetation adapted to arid or dry conditions, stone, or landscaping rock.

(c) "Firewise" means the firewise communities program developed by the national fire protection association, which encourages local solutions for wildfire safety by involving homeowners, community leaders, planners, developers, firefighters, and others in the effort to protect people and property from wildfire risks.

(d) "Wildfire ignition resistant landscaping" includes:

- (i) Any landscaping tools or techniques, or noninvasive vegetation, that do not readily ignite from a flame or other ignition source; or
- (ii) The use of firewise methods to reduce ignition risk in a building ignition zone.

NEW SECTION. Sec. 5. A new section is added to chapter 39.35D RCW to read as follows:

(1)(a) The legislature intends to encourage the use of landscaping design techniques that meet the highest standards for water efficiency in the design and construction of state-funded buildings. Except as provided in subsection (2) of this section, any public agency, public school district, or other entity undertaking a major facility project subject to the requirements of RCW 39.35D.030 or 39.35D.040 are encouraged to design and construct such projects to receive all practical water efficient landscaping credits available under the United States green building council rating system, international green construction code,

other nationally recognized consensus standard, or the Washington sustainable school design protocol, as each standard existed on the effective date of this section. Entities undertaking major facility projects may consider costs and potential benefits when determining the practicality of incorporating water efficient landscaping measures into the design and construction of the projects.

(b) Water efficient landscaping techniques may include:

(i) Reducing or eliminating the use of potable water for irrigation; and

(ii) Configuring irrigation and sprinkler systems to avoid spraying water directly on buildings, sidewalks, or other hardscapes.

(2) This section does not apply to athletic fields or other project elements that are eligible for exclusion from water efficient landscaping standards under either the United States green building council rating system, international green construction code, other nationally recognized consensus standard, or the Washington sustainable school design protocol, as each standard existed on the effective date of this section.

(3)(a) Nothing in this section may prohibit or restrict the use of wildfire ignition resistant landscaping, including the establishment and maintenance of a fire buffer in the building ignition zone, in the design and construction of major facility projects subject to the requirements of RCW 39.35D.030 or 39.35D.040.

(b) The definitions in this subsection (3)(b) apply throughout this subsection unless the context clearly requires otherwise.

(i) "Building ignition zone" means a building and surrounding area up to two hundred feet from the foundation.

(ii) "Firewise" means the firewise communities program developed by the national fire protection association, which encourages local solutions for wildfire safety by involving homeowners, community leaders, planners, developers, firefighters, and others in the effort to protect people and property from wildfire risks.

(iii) "Wildfire ignition resistant landscaping" includes:

(A) Any landscaping tools or techniques, or noninvasive vegetation, that do not readily ignite from a flame or other ignition source; or

(B) The use of firewise methods to reduce ignition risk in a building ignition zone.

Passed by the House January 27, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 10

[Engrossed Substitute House Bill 1261]

DISCHARGES INTO WATERS--FEDERAL CLEAN WATER ACT

AN ACT Relating to ensuring compliance with the federal clean water act by prohibiting certain discharges into waters of the state; amending RCW 77.55.021; reenacting and amending RCW 77.55.011; adding a new section to chapter 90.48 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds that under RCW 90.48.260, the department of ecology is directed to implement and comply with the federal

clean water act. The legislature further finds that Washington state, unlike other states and the environmental protection agency, has taken no action to regulate or limit water quality impacts from motorized or gravity siphon aquatic mining. The legislature also finds that federal courts have determined that discharges from this activity require regulation under the clean water act and that Washington's attorney general has supported such regulations in other states as necessary to protect water quality and fish species, even though such protections do not exist in Washington state. The legislature further finds that harmful water quality impacts are occurring in areas designated as critical habitat for threatened or endangered steelhead, salmon, and bull trout, including spawning areas for chinook salmon relied on by southern resident orcas.

NEW SECTION. Sec. 2. A new section is added to chapter 90.48 RCW to read as follows:

(1) A discharge to waters of the state from a motorized or gravity siphon aquatic mining operation is subject to the department's authority under this chapter and the federal clean water act. The department shall evaluate whether the number of dischargers subject to this section warrants the adoption of a general permit for motorized or gravity siphon aquatic mining. If so, the department is directed to minimize the cost to permit applicants by basing general permit provisions on existing general permits adopted in other states to comply with the federal clean water act.

(2) The following act or acts are prohibited: Motorized or gravity siphon aquatic mining or discharge of effluent from such activity to any waters of the state that has been designated under the endangered species act as critical habitat, or would impact critical habitat for salmon, steelhead, or bull trout. This includes all fresh waters with designated uses of: Salmonid spawning, rearing, and migration.

(3) A person commits the offense of unlawful motorized or gravity siphon aquatic mining if the person engages in such an activity in violation of this chapter or the federal clean water act. Such an offense is subject to enforcement under this chapter. Before the department may take any enforcement action against a person pursuant to this section, the department shall first attempt to achieve voluntary compliance. As part of this first response, the department shall offer information and technical assistance to the person in writing identifying one or more means to accomplish the person's purposes within the framework of the law.

(4) For the purposes of this section, "motorized or gravity siphon aquatic mining" means mining using any form of motorized equipment, including but not limited to a motorized suction dredge, or a gravity siphon suction dredge, for the purpose of extracting gold, silver, or other precious metals, that involves a discharge within the ordinary high water mark of waters of the state.

(5) This section does not apply to:

(a) Aquatic mining using nonmotorized methods, such as gold panning, if the nonmotorized method does not involve use of a gravity siphon suction dredge;

(b) Mining operations where no part of the operation or discharge of effluent from the operation is to waters of the state;

(c) Surface mining operations regulated by the department of natural resources under Title 78 RCW;

(d) Metals mining and milling operations as defined in chapter 78.56 RCW; or

(e) Activities related to an industrial facility, dredging related to navigability, or activities subject to a clean water act section 404 individual permit.

Sec. 3. RCW 77.55.011 and 2012 1st sp.s. c 1 s 101 are each reenacted and amended to read as follows:

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

(1) "Bed" means the land below the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, stormwater runoff devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered artificially.

(2) "Board" means the pollution control hearings board created in chapter 43.21B RCW.

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

(4) "Date of receipt" has the same meaning as defined in RCW 43.21B.001.

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

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

(7) "Emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(8) "Emergency permit" means a verbal hydraulic project approval or the written follow-up to the verbal approval issued to a person under RCW 77.55.021(12).

(9) "Expedited permit" means a hydraulic project approval issued to a person under RCW 77.55.021 (14) and (16).

(10) "Forest practices hydraulic project" means a hydraulic project that requires a forest practices application or notification under chapter 76.09 RCW.

(11) "Hydraulic project" means the construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state.

(12) "Imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

(13) "Marina" means a public or private facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

(14) "Marine terminal" means a public or private commercial wharf located in the navigable water of the state and used, or intended to be used, as a port or facility for the storing, handling, transferring, or transporting of goods to and from vessels.

(15) "Multiple site permit" means a hydraulic project approval issued to a person under RCW 77.55.021 for hydraulic projects occurring at more than one specific location and which includes site-specific requirements.

(16) "Ordinary high water line" means the mark on the shores of all water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years as to mark upon the soil or vegetation a character distinct from the abutting upland. Provided, that in any area where the ordinary high water

line cannot be found, the ordinary high water line adjoining saltwater is the line of mean higher high water and the ordinary high water line adjoining fresh water is the elevation of the mean annual flood.

(17) "Pamphlet hydraulic project" means a hydraulic project for the removal or control of aquatic noxious weeds conducted under the aquatic plants and fish pamphlet authorized by RCW 77.55.081, or for mineral prospecting and mining conducted under the gold and fish pamphlet authorized by RCW 77.55.091.

(18) "Permit" means a hydraulic project approval permit issued under this chapter.

(19) "Permit modification" means a hydraulic project approval issued to a person under RCW 77.55.021 that extends, renews, or changes the conditions of a previously issued hydraulic project approval.

(20) "Sandbars" includes, but is not limited to, sand, gravel, rock, silt, and sediments.

(21) "Small scale prospecting and mining" means the use of only the following methods: Pans; nonmotorized sluice boxes; nonmotorized concentrators; and minirocker boxes for the discovery and recovery of minerals, but does not include metals mining and milling operations as defined in RCW 78.56.020.

(22) "Spartina," "purple loosestrife," and "aquatic noxious weeds" have the same meanings as defined in RCW 17.26.020.

(23) "Stream bank stabilization" means those projects that prevent or limit erosion, slippage, and mass wasting. These projects include, but are not limited to, bank resloping, log and debris relocation or removal, planting of woody vegetation, bank protection using rock or woody material or placement of jetties or groins, gravel removal, or erosion control.

(24) "Tide gate" means a one-way check valve that prevents the backflow of tidal water.

(25) "Waters of the state" and "state waters" means all salt and fresh waters waterward of the ordinary high water line and within the territorial boundary of the state.

(26) "Motorized or gravity siphon aquatic mining" means mining using any form of motorized equipment including, but not limited to, a motorized suction dredge or a gravity siphon suction dredge, for the purpose of extracting gold, silver, or other precious metals, that involves a discharge to waters of the state, but does not include metals mining and milling operations as defined in RCW 78.56.020.

Sec. 4. RCW 77.55.021 and 2012 1st sp.s. c 1 s 102 are each amended to read as follows:

(1) Except as provided in RCW 77.55.031, 77.55.051, 77.55.041, and 77.55.361, in the event that any person or government agency desires to undertake a hydraulic project, the person or government agency shall, before commencing work thereon, secure the approval of the department in the form of a permit as to the adequacy of the means proposed for the protection of fish life.

(2) A complete written application for a permit may be submitted in person or by registered mail and must contain the following:

(a) General plans for the overall project;

(b) Complete plans and specifications of the proposed construction or work within the mean higher high water line in salt water or within the ordinary high water line in fresh water;

(c) Complete plans and specifications for the proper protection of fish life;

(d) Notice of compliance with any applicable requirements of the state environmental policy act, unless otherwise provided for in this chapter; and

(e) ~~((Payment of all applicable application fees charged by the department under RCW 77.55.321))~~ In the event that any person or government agency desires to undertake mineral prospecting or mining using motorized or gravity siphon equipment or desires to discharge effluent from such an activity to waters of the state, the person or government agency must also provide proof of compliance with the requirements of the federal clean water act issued by the department of ecology.

(3) The department may establish direct billing accounts or other funds transfer methods with permit applicants to satisfy the fee payment requirements of RCW 77.55.321.

(4) The department may accept complete, written applications as provided in this section for multiple site permits and may issue these permits. For multiple site permits, each specific location must be identified.

(5) With the exception of emergency permits as provided in subsection (12) of this section, applications for permits must be submitted to the department's headquarters office in Olympia. Requests for emergency permits as provided in subsection (12) of this section may be made to the permitting biologist assigned to the location in which the emergency occurs, to the department's regional office in which the emergency occurs, or to the department's headquarters office.

(6) Except as provided for emergency permits in subsection (12) of this section, the department may not proceed with permit review until all fees are paid in full as required in RCW 77.55.321.

(7)(a) Protection of fish life is the only ground upon which approval of a permit may be denied or conditioned. Approval of a permit may not be unreasonably withheld or unreasonably conditioned.

(b) Except as provided in this subsection and subsections (12) through (14) and (16) of this section, the department has forty-five calendar days upon receipt of a complete application to grant or deny approval of a permit. The forty-five day requirement is suspended if:

(i) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;

(ii) The site is physically inaccessible for inspection;

(iii) The applicant requests a delay; or

(iv) The department is issuing a permit for a stormwater discharge and is complying with the requirements of RCW 77.55.161(3)(b).

(c) Immediately upon determination that the forty-five day period is suspended under (b) of this subsection, the department shall notify the applicant in writing of the reasons for the delay.

(d) The period of forty-five calendar days may be extended if the permit is part of a multiagency permit streamlining effort and all participating permitting agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.

(8) If the department denies approval of a permit, the department shall provide the applicant a written statement of the specific reasons why and how the proposed project would adversely affect fish life.

(a) Except as provided in (b) of this subsection, issuance, denial, conditioning, or modification of a permit shall be appealable to the board within thirty days from the date of receipt of the decision as provided in RCW 43.21B.230.

(b) Issuance, denial, conditioning, or modification of a permit may be informally appealed to the department within thirty days from the date of receipt of the decision. Requests for informal appeals must be filed in the form and manner prescribed by the department by rule. A permit decision that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(9)(a) The permittee must demonstrate substantial progress on construction of that portion of the project relating to the permit within two years of the date of issuance.

(b) Approval of a permit is valid for up to five years from the date of issuance, except as provided in (c) of this subsection and in RCW 77.55.151.

(c) A permit remains in effect without need for periodic renewal for hydraulic projects that divert water for agricultural irrigation or stock watering purposes and that involve seasonal construction or other work. A permit for stream bank stabilization projects to protect farm and agricultural land as defined in RCW 84.34.020 remains in effect without need for periodic renewal if the problem causing the need for the stream bank stabilization occurs on an annual or more frequent basis. The permittee must notify the appropriate agency before commencing the construction or other work within the area covered by the permit.

(10) The department may, after consultation with the permittee, modify a permit due to changed conditions. A modification under this subsection is not subject to the fees provided under RCW 77.55.321. The modification is appealable as provided in subsection (8) of this section. For a hydraulic project that diverts water for agricultural irrigation or stock watering purposes, when the hydraulic project or other work is associated with stream bank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the department to show that changed conditions warrant the modification in order to protect fish life.

(11) A permittee may request modification of a permit due to changed conditions. The request must be processed within forty-five calendar days of receipt of the written request and payment of applicable fees under RCW 77.55.321. A decision by the department is appealable as provided in subsection (8) of this section. For a hydraulic project that diverts water for agricultural irrigation or stock watering purposes, when the hydraulic project or other work is associated with stream bank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the permittee to show that changed conditions warrant the requested modification and that such a modification will not impair fish life.

(12)(a) The department, the county legislative authority, or the governor may declare and continue an emergency. If the county legislative authority declares an emergency under this subsection, it shall immediately notify the

department. A declared state of emergency by the governor under RCW 43.06.010 shall constitute a declaration under this subsection.

(b) The department, through its authorized representatives, shall issue immediately, upon request, verbal approval for a stream crossing, or work to remove any obstructions, repair existing structures, restore stream banks, protect fish life, or protect property threatened by the stream or a change in the streamflow without the necessity of obtaining a written permit prior to commencing work. Conditions of the emergency verbal permit must be reduced to writing within thirty days and complied with as provided for in this chapter.

(c) The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(d) The department may not charge a person requesting an emergency permit any of the fees authorized by RCW 77.55.321 until after the emergency permit is issued and reduced to writing.

(13) All state and local agencies with authority under this chapter to issue permits or other authorizations in connection with emergency water withdrawals and facilities authorized under RCW 43.83B.410 shall expedite the processing of such permits or authorizations in keeping with the emergency nature of such requests and shall provide a decision to the applicant within fifteen calendar days of the date of application.

(14) The department or the county legislative authority may determine an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to remove any obstructions, repair existing structures, restore banks, protect fish resources, or protect property. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(15)(a) For any property, except for property located on a marine shoreline, that has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway, the county legislative authority may determine that a chronic danger exists. The county legislative authority shall notify the department, in writing, when it determines that a chronic danger exists. In cases of chronic danger, the department shall issue a permit, upon request, for work necessary to abate the chronic danger by removing any obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish resources, or protecting property. Permit requests must be made and processed in accordance with subsections (2) and (7) of this section.

(b) Any projects proposed to address a chronic danger identified under (a) of this subsection that satisfies the project description identified in RCW 77.55.181(1)(a)(ii) are not subject to the provisions of the state environmental policy act, chapter 43.21C RCW. However, the project is subject to the review

process established in RCW 77.55.181(3) as if it were a fish habitat improvement project.

(16) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

Passed by the House February 12, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 11

[House Bill 1347]

VEHICLE RESELLER PERMITS

AN ACT Relating to vehicle reseller permits; amending RCW 82.12.045; and adding a new section to chapter 46.04 RCW.

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

Sec. 1. RCW 82.12.045 and 2010 c 161 s 904 are each amended to read as follows:

(1) In the collection of the use tax on vehicles, the department of revenue may designate the county auditors of the several counties of the state as its collecting agents. Upon such designation, it shall be the duty of each county auditor to collect the tax at the time an applicant applies for transfer of certificate of title to the vehicle, except when the applicant:

(a) Exhibits a dealer's report of sale showing that the retail sales tax has been collected by the dealer;

(b) Presents a valid reseller permit issued to the vehicle owner by the department of revenue under the authority of RCW 82.32.780;

(c) Presents a written statement signed by the department of revenue, or its duly authorized agent showing that no use tax is legally due; or

~~((e))~~ (d) Presents satisfactory evidence showing that the retail sales tax or the use tax has been paid by the applicant on the vehicle in question.

(2) As used in this section, "vehicle" has the same meaning as in RCW 46.04.670.

(3) It shall be the duty of every applicant for registration and transfer of certificate of title who is subject to payment of tax under this section to declare upon the application the value of the vehicle for which application is made, which shall consist of the consideration paid or contracted to be paid therefor.

(4) Each county auditor who acts as agent of the department of revenue shall at the time of remitting vehicle license fee receipts on vehicles subject to the provisions of this section pay over and account to the state treasurer for all use tax revenue collected under this section, after first deducting as a collection fee

the sum of two dollars for each motor vehicle upon which the tax has been collected. All revenue received by the state treasurer under this section shall be credited to the general fund. The auditor's collection fee shall be deposited in the county current expense fund. A duplicate of the county auditor's transmittal report to the state treasurer shall be forwarded forthwith to the department of revenue.

(5) Any applicant who has paid use tax to a county auditor under this section may apply to the department of revenue for refund thereof if he or she has reason to believe that such tax was not legally due and owing. No refund shall be allowed unless application therefor is received by the department of revenue within the statutory period for assessment of taxes, penalties, or interest prescribed by RCW 82.32.050(4). Upon receipt of an application for refund the department of revenue shall consider the same and issue its order either granting or denying it and if refund is denied the taxpayer shall have the right of appeal as provided in RCW 82.32.170, 82.32.180, and 82.32.190.

(6) The provisions of this section shall be construed as cumulative of other methods prescribed in chapters 82.04 through 82.32 RCW, inclusive, for the collection of the tax imposed by this chapter. The department of revenue shall have power to promulgate such rules as may be necessary to administer the provisions of this section. Any duties required by this section to be performed by the county auditor may be performed by the director of licensing but no collection fee shall be deductible by said director in remitting use tax revenue to the state treasurer.

(7) The use tax revenue collected on the rate provided in RCW 82.08.020(3) shall be deposited in the multimodal transportation account under RCW 47.66.070.

NEW SECTION. Sec. 2. A new section is added to chapter 46.04 RCW to read as follows:

"Rental trailer" means a trailer, as defined in RCW 46.04.620, that is used solely by a rental car business for rental to others for periods of not more than thirty consecutive days.

Passed by the House February 12, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 12

[Engrossed Substitute House Bill 1520]

ELECTION DATES ON BALLOT ENVELOPES

AN ACT Relating to calendar election dates on ballot envelopes; and amending RCW 29A.40.091.

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

Sec. 1. RCW 29A.40.091 and 2019 c 161 s 3 are each amended to read as follows:

(1) The county auditor shall send each voter a ballot, a security envelope in which to conceal the ballot after voting, a larger envelope in which to return the security envelope, a declaration that the voter must sign, and instructions on how

to obtain information about the election, how to mark the ballot, and how to return the ballot to the county auditor. The calendar date of the election must be prominently displayed in bold type, twenty-point font or larger, on the envelope sent to the voter containing the ballot and other materials listed in this subsection:

- (a) For all general elections in 2020 and after;
- (b) For all primary elections in 2021 and after; and
- (c) For all elections in 2022 and after.

(2) The voter must swear under penalty of perjury that he or she meets the qualifications to vote, and has not voted in any other jurisdiction at this election. The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and it is illegal to cast a ballot or sign a ballot declaration on behalf of another voter. The ballot materials must provide space for the voter to sign the declaration, indicate the date on which the ballot was voted, and include a telephone number.

(3) For overseas and service voters, the signed declaration constitutes the equivalent of a voter registration. Return envelopes for overseas and service voters must enable the ballot to be returned postage free if mailed through the United States postal service, United States armed forces postal service, or the postal service of a United States foreign embassy under 39 U.S.C. 3406.

(4) The voter must be instructed to either return the ballot to the county auditor no later than 8:00 p.m. the day of the election or primary, or mail the ballot to the county auditor with a postmark no later than the day of the election or primary. Return envelopes for all election ballots must include prepaid postage. Service and overseas voters must be provided with instructions and a privacy sheet for returning the ballot and signed declaration by fax or email. A voted ballot and signed declaration returned by fax or email must be received by 8:00 p.m. on the day of the election or primary.

(5) The county auditor's name may not appear on the security envelope, the return envelope, or on any voting instructions or materials included with the ballot if he or she is a candidate for office during the same year.

(6) For purposes of this section, "prepaid postage" means any method of return postage paid by the county or state.

Passed by the House January 27, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 13

[Third Substitute House Bill 1660]

EXTRACURRICULAR ACTIVITIES--PARTICIPATION BY LOW INCOME STUDENTS

AN ACT Relating to the participation of students who are low income in extracurricular activities; amending RCW 28A.325.010 and 28A.325.050; adding new sections to chapter 28A.320 RCW; adding a new section to chapter 28A.600 RCW; and creating a new section.

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

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

(a) Interscholastic athletics and activities are a vital part of enriching students' educational experiences and developing students into responsible adults;

(b) Research supports the theory that students who participate in extracurricular activities have:

(i) Better grades and higher standardized test scores;

(ii) Increased school attendance;

(iii) Improved health and wellness; and

(iv) Positively enhanced educational experience;

(c) Many school districts require associated student body cards to participate in extracurricular activities and many school districts charge a fee for associated student body cards;

(d) Many school districts require a participation fee for some extracurricular activities; and

(e) The fees associated with obtaining associated student body cards and with participating in extracurricular activities may create an obstacle to participation in extracurricular activities by students who are low income.

(2) The legislature intends to reduce the obstacle to participation in extracurricular activities caused by the fees charged to students who are low income by creating equitable access to opportunities that improve academic, social, and emotional outcomes, collecting and analyzing data, and addressing barriers to extracurricular activities.

NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this section apply throughout sections 3 through 7 of this act and RCW 28A.325.050 unless the context clearly requires otherwise.

(1) "Associated student body executive board" means the student leadership group responsible for decision making related to the associated student body at a public school.

(2) "Extracurricular activities" means school-based athletic programs. "Extracurricular activities" may also include optional noncredit school clubs.

(3) "High school student" means a public school student enrolled in any of grades nine through twelve.

(4) "Students who are low income" means students who are eligible to participate in the federal free and reduced-price meals program or, if this data is unavailable, the college bound scholarship program under chapter 28B.118 RCW.

NEW SECTION. Sec. 3. DATA COLLECTION, PUBLISHING, AND REPORTING. (1) Beginning April 1, 2021, and by April 1st annually thereafter, school districts must collect and report to the associated student body executive board the data related to students in possession of associated student body cards and student participation in school-based athletic programs described in subsection (3) of this section. An associated student body executive board must be provided with data from its high school only, and not with data from other high schools in the district. This data must include at least two weeks of data from the beginning of spring athletics season.

(2) Beginning April 15, 2021, and by April 15th annually thereafter, school districts must collect the data related to student possession of an associated student body card and student participation in school-based athletic programs

described in subsection (3) of this section and publish the data as required under RCW 28A.325.050.

(3) Student possession of an associated student body card and student participation in school-based athletic programs data must include:

(a) The total number of high school students and the total number of high school students who are low income;

(b) The purchase amount of an associated student body card for high school students;

(c) The discounted purchase amount of an associated student body card for high school students who are low income;

(d) Athletic program participation fees and any discounted fees for high school students who are low income;

(e) The number of high school students who possess an associated student body card and the number of high school students who are both low income and possess an associated student body card;

(f) The number of high school students participating in an athletic program and the number of high school students who are both low income and participate in an athletic program;

(g) The opportunity gap in student possession of an associated student body card, as calculated under section 4 of this act;

(h) The opportunity gap in athletic program participation, as calculated under section 4 of this act;

(i) Whether the school district has met the opportunity gap goals described in sections 5 and 6 of this act; and

(j) The extracurricular activity opportunity gap reduction plan, as described in section 7 of this act, as applicable.

(4) Data collected, reported, and published as required under this section must be from the current school year.

(5) Although data on student participation in school clubs is not required under this section, high schools may include it at their discretion.

(6) School districts that do not enroll high school students are exempt from this section.

(7) Upon request from the superintendent of public instruction, school districts must provide a summary report of the data in this section.

(8) The superintendent of public instruction may adopt rules in accordance with chapter 34.05 RCW as necessary to implement this section.

NEW SECTION. Sec. 4. CALCULATION OF EXTRACURRICULAR ACTIVITY OPPORTUNITY GAPS. (1) A school district must calculate the opportunity gap in student possession of an associated student body card by subtracting the percentage of high school students who are low income and who possess an associated student body card from the percentage of high school students who are not low income and who possess an associated student body card.

(2)(a) A school district must calculate the opportunity gap in athletic program participation by subtracting the percentage of high school students who are low income and who participated in an athletic program from the percentage of high school students who are not low income and who participated in an athletic program.

(b) Although the calculation described in (a) of this subsection (2) is not required to use data on student participation in school clubs, high schools may include it at their discretion.

(3) School districts may elect to exclude the number of students who are low income and who are participating in the running start program, as defined in RCW 28A.600.300, when calculating opportunity gaps under this section.

NEW SECTION. Sec. 5. GOALS FOR REDUCING THE OPPORTUNITY GAP IN POSSESSION OF AN ASSOCIATED STUDENT BODY CARD. (1) If a high school does not require an associated student body card for participation in any extracurricular activities or to receive any student discounts, the goals in this section do not apply.

(2)(a) For a high school that requires an associated student body card for participation in school clubs only, the goal is that fifty percent of high school students possess an associated student body card each school year.

(b) For a high school that requires an associated student body card for participation in school clubs and school-based athletics, the goal is that seventy percent of high school students possess an associated student body card each school year.

(3) For each high school, the opportunity gap in student possession of an associated student body card, as calculated under section 4 of this act, may not exceed the following goals:

(a) During the 2020-21 school year, the opportunity gap must be twenty or fewer percentage points;

(b) During the 2021-22 school year, the opportunity gap must be sixteen or fewer percentage points;

(c) During the 2022-23 school year, the opportunity gap must be twelve or fewer percentage points;

(d) During the 2023-24 school year, the opportunity gap must be eight or fewer percentage points; and

(e) During the 2024-25 school year, and for each subsequent school year, the opportunity gap must be five or fewer percentage points.

NEW SECTION. Sec. 6. GOALS FOR REDUCING THE OPPORTUNITY GAP IN EXTRACURRICULAR ACTIVITY PARTICIPATION. For each high school, the opportunity gap in extracurricular activity participation, as calculated under section 4 of this act, must not exceed the following goals:

(1) During the 2020-21 school year, the opportunity gap must be twenty or fewer percentage points;

(2) During the 2021-22 school year, the opportunity gap must be sixteen or fewer percentage points;

(3) During the 2022-23 school year, the opportunity gap must be twelve or fewer percentage points;

(4) During the 2023-24 school year, the opportunity gap must be eight or fewer percentage points; and

(5) During the 2024-25 school year, and for each subsequent school year, the opportunity gap must be five or fewer percentage points.

NEW SECTION. Sec. 7. EXTRACURRICULAR ACTIVITY OPPORTUNITY GAP REDUCTION PLAN. (1) Beginning June 1, 2021, and

by June 1st annually thereafter, a school district with a high school that does not meet or beat one or more of the opportunity gap reduction goals described in section 5 or 6 of this act must develop, submit, and implement an extracurricular activity opportunity gap reduction plan.

(2) The plan must be formatted and submitted as directed by the office of the superintendent of public instruction.

(3) The plan must be published as required under RCW 28A.325.050.

(4) When developing the plan, the school district shall review recommendations from the associated student body executive board.

(5) The office of the superintendent of public instruction may review the plans submitted under this section and provide feedback and technical assistance to help school districts meet the requirements of this act.

NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.600 RCW to read as follows:

STREAMLINING FEE COLLECTION.

(1) The process for charging and collecting associated student body card fees, school-based athletic program fees, optional noncredit school club fees, and other fees from students in grades nine through twelve who are low income must be identical to the process for charging and collecting fees from other students in grades nine through twelve, except that the fee waivers described under RCW 28A.325.010 must be automatically applied where applicable.

(2) The legislature recommends, but does not require, that the requirements under subsection (1) of this section are made applicable to students in grades six through eight.

Sec. 9. RCW 28A.325.010 and 1977 ex.s. c 170 s 1 are each amended to read as follows:

FEE WAIVER CLARIFICATION.

The board of directors of any common school district may establish and collect a fee from students and nonstudents as a condition to their attendance at, or participation in, any optional noncredit extracurricular event of the district which is of a cultural, social, recreational, or athletic nature: PROVIDED, That in ~~((sø))~~ establishing such fee or fees, the district shall adopt a policy and regulations for waiving fees for students who are eligible to participate in the federal free or reduced-price meals program and for reducing ((such)) fees ~~((in the cases of those students whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees and may likewise waive or reduce such fees))~~ for students' family members and other nonstudents of the age of sixty-five or over who, by reason of their low income, would have difficulty in paying the entire amount of such fees. An optional comprehensive fee may be established and collected for any combination or all of such events or, in the alternative, a fee may be established and collected as a condition to attendance at any single event. Fees collected pursuant to this section shall be deposited in the associated student body program fund of the school district, and may be expended to defray the costs of optional noncredit extracurricular events of such a cultural, social, recreational, or athletic nature, or to otherwise support the activities and programs of associated student bodies.

Sec. 10. RCW 28A.325.050 and 2014 c 211 s 3 are each amended to read as follows:

PUBLISHING OPPORTUNITY GAP PLANS AND DATA.

(1) Each school district that has an associated student body program fund must publish the following information about the fund on its web site:

- (a) The fund balance at the beginning of the school year;
- (b) Summary data about expenditures and revenues occurring over the course of the school year; and
- (c) The fund balance at the end of the school year.

(2) Beginning in the 2020-21 school year, each school district that has an associated student body must publish the following information on its web site:

- (a) Data related to high school student possession of an associated student body card and high school student participation in school-based extracurricular activities collected under section 3 of this act;
- (b) The school district's extracurricular activity opportunity gap reduction plan if required under section 7 of this act; and
- (c) A list of optional noncredit extracurricular event attendance and participation fees and the school district policy for waiving and reducing these fees as described under RCW 28A.325.010.

(3) The information under this section must be published for each associated student body of the district and each account within the associated student body program fund.

~~((3))~~ (4) If the school district web site contains separate web sites for schools in the district, the information under this section must be published on the web site of the applicable school of the associated student body.

~~((4) No later than August 31, 2014, school districts must publish the information under this section on their web sites for the 2012-13 and 2013-14 school years.))~~ (5) School districts must add updated annual information to their web sites by each August 31st, except that school districts are only required to maintain the information on the web site from the previous five years.

(6) For purposes of this section, the definitions in section 2 of this act apply.

NEW SECTION. Sec. 11. Sections 2 through 7 of this act are each added to chapter 28A.320 RCW under the subchapter heading "summer school, night school, extracurricular activities, and athletics."

Passed by the House February 12, 2020.
 Passed by the Senate March 3, 2020.
 Approved by the Governor March 18, 2020.
 Filed in Office of Secretary of State March 18, 2020.

CHAPTER 14

[House Bill 1750]

COUNTY SHERIFF OFFICES--FILLING VACANCIES

AN ACT Relating to filling vacancies in county sheriff offices; and amending RCW 41.14.060 and 41.14.130.

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

Sec. 1. RCW 41.14.060 and 2012 c 117 s 12 are each amended to read as follows:

It shall be the duty of the civil service commission:

(1) To make suitable rules and regulations not inconsistent with the provisions hereof. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, reallocations, transfers, reinstatements, demotions, suspensions, and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this chapter, or which may be found to be in the interest of good personnel administration. The rules and regulations and any amendments thereof shall be printed, mimeographed, or multigraphed for free public distribution. Such rules and regulations may be changed from time to time.

(2) To give practical tests which shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made. Such tests may include tests of physical fitness or manual skill or both.

(3) To make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; to inspect all departments, offices, places, positions, and employments affected by this chapter, and ascertain whether this chapter and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designated commissioner, or chief examiner, may administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents, and accounts appertaining to the investigation and also cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered and the subpoenas issued hereunder shall have the same force and effect as the oaths administered and subpoenas issued by a superior court judge in his or her judicial capacity; and the failure of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this chapter, and punishable as such.

(4) To conduct hearings and investigations in accordance with this chapter and by the rules of practice and procedure adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule, or regulation made, approved, or confirmed by the commission: PROVIDED, That no order, decision, rule, or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members.

(5) To hear and determine appeals or complaints respecting the allocation of positions, the rejection of an examinee, and such other matters as may be referred to the commission.

(6) To provide for, formulate, and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions, and provide that persons laid off, or who have accepted voluntary demotion in lieu of layoff, because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed or reinstated in their former job class.

(7) To certify to the appointing authority, when a vacant position is to be filled, on written request, the names of the (~~three~~) five persons highest on the eligible list for the class. If there is no such list, to authorize a provisional or temporary appointment list for such class. A temporary appointment expires after four months. However, the appointing authority may extend the temporary appointment beyond the four-month period up to one year if the commission continues to advertise and test for the position. If, after one year from the date the initial temporary appointment was first made, there are less than (~~three~~) five persons on the eligible list for the class, then the appointing authority may fill the position with any person or persons on the eligible list.

(8) To keep such records as may be necessary for the proper administration of this chapter.

Sec. 2. RCW 41.14.130 and 1984 c 199 s 2 are each amended to read as follows:

Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall requisition the commission for the names and addresses of persons eligible for appointment thereto. Before a requisition can be made, the appointing authority shall give employees of the appointing authority who are in layoff status or who have been notified of an intended layoff an opportunity to qualify for any class within the office of the appointing authority. The commission shall certify the names of the (~~three~~) five persons highest on the eligible list for the class to which the vacant position has been allocated, who are willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the names of the (~~three~~) five persons standing highest on the list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint a person from those certified to the vacant position.

To enable the appointing power to exercise a greater degree of choice in the filling of positions, no appointment, employment, or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of one year's probationary service, as may be provided in the rules of the civil service commission, during which the appointing power may terminate the employment of the person appointed, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems such person unfit or unsatisfactory for service in the office of county sheriff. Thereupon the appointing power shall again requisition the commission for the names and addresses of persons eligible for appointment in the manner provided by this section and the person appointed in the manner provided by this section shall likewise enter upon said duties for the probationary period, until some person is found who is deemed fit for

appointment, employment, or promotion whereupon the appointment, employment, or promotion shall be deemed complete.

Passed by the House February 12, 2020.

Passed by the Senate February 26, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 15

[House Bill 1755]

DOCTORAL EDUCATION DEGREES--REGIONAL UNIVERSITIES

AN ACT Relating to allowing regional universities to offer doctorate level degrees in education; and adding a new section to chapter 28B.35 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.35 RCW to read as follows:

The boards of trustees of the regional universities may offer applied, but not research, doctorate level degrees in education.

Passed by the House January 22, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 16

[Second Substitute House Bill 2066]

DRIVER'S LICENSE RESTRICTIONS--USE OF MOTOR VEHICLE IN FELONY

AN ACT Relating to restrictions on driver's licenses associated with certain criminal offenses; amending RCW 46.20.285; and providing an effective date.

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

Sec. 1. RCW 46.20.285 and 2005 c 288 s 4 are each amended to read as follows:

The department shall 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 where the sentencing court determines that in the commission ~~((of which))~~ of the offense a motor vehicle ~~((is))~~ was used in a manner that endangered persons or property;

(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.

NEW SECTION. Sec. 2. This act takes effect January 1, 2022.

Passed by the House February 18, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 17

[House Bill 2109]

CHEHALIS BOARD--MEMBERSHIP

AN ACT Relating to membership of the Chehalis board; and amending RCW 43.21A.731.

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

Sec. 1. RCW 43.21A.731 and 2017 c 27 s 1 are each amended to read as follows:

(1) The Chehalis board is created consisting of seven voting members.

(2)(a) Four members of the board must be voting members who are appointed through the governor. The governor shall invite the Confederated Tribes of the Chehalis Reservation and the Quinault Indian Nation to each designate a voting member of the board, each of which may also designate a voting alternate member of the board. In addition, the governor shall appoint two members of the board, subject to confirmation by the senate. Three board members must be selected by the Chehalis basin flood authority. No member may have a direct financial interest in the actions of the board. The governor shall appoint one of the flood authority appointees as the chair. The voting members of the board must be appointed for terms of four years, except that one member appointed by the governor and one member appointed by the flood authority initially must be appointed for terms of two years, and one member appointed by the governor and two members appointed by the flood authority must initially be appointed for terms of three years. In making the appointments, each appointing authority shall seek a board membership that collectively provides the expertise necessary to provide strong oversight for implementation of the Chehalis basin strategy, that provides extensive knowledge of local government processes and functions, and that has an understanding of issues relevant to reducing flood damages and restoring aquatic species.

(b) In addition to the seven voting members of the board, the following five state officials must serve as ex officio nonvoting members of the board: the director of the department of fish and wildlife, the executive director of the Washington state conservation commission, the secretary of the department of transportation, the director of the department of ecology, and the commissioner of public lands. The state officials serving in an ex officio capacity may designate a representative of their respective agencies to serve on the board in their behalf. These designations must be made in writing and in such a manner as is specified by the board.

(3) Staff support to the board must be provided by the department. For administrative purposes, the board is located within the department.

(4) Members of the board who do not represent state agencies must be compensated as provided by RCW 43.03.250. Members of the board shall be reimbursed for travel expenses as provided by RCW 43.03.050 and 43.03.060.

(5) The board is responsible for oversight of a long-term strategy resulting from the department's programmatic environmental impact statement for the Chehalis river basin to reduce flood damages and restore aquatic species habitat.

(6) The board is responsible for overseeing the implementation of the strategy and developing biennial and supplemental budget recommendations to the governor.

Passed by the House February 12, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 18

[Substitute House Bill 2205]

TECHNICAL CORRECTIONS

AN ACT Relating to making technical corrections and removing obsolete language from the Revised Code of Washington pursuant to RCW 1.08.025; amending RCW 9.41.042, 9A.42.010, 13.40.0357, 13.40.160, 13.40.193, 13.40.265, 28A.400.210, 41.05.175, 43.09.025, 46.18.255, 46.18.265, 46.18.285, 46.18.290, 48.20.389, 48.21.223, 48.44.323, 48.46.274, 64.50.010, 69.50.414, 69.52.030, and 28B.76.540; reenacting and amending RCW 43.79A.040, 43.84.092, 10.77.088, and 70.105D.030; and creating a new section.

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

NEW SECTION. Sec. 1. RCW 1.08.025 directs the code reviser, with the approval of the statute law committee, to prepare legislation for submission to the legislature "concerning deficiencies, conflicts, or obsolete provisions" in statutes. This act makes technical, nonsubstantive amendments as follows:

(1) Sections 2 and 3 of this act correct the accounts and funds listed in the code sections providing for interest income by moving misplaced accounts and funds, removing repealed accounts and funds, and making account and fund names more uniform.

(2) Sections 4 and 5 of this act merge double amendments created when sections were amended in the 2019 legislative session without reference to the amendments made in the same session.

(3) Sections 6 through 25 of this act amend sections to reflect changes in subsection numbering of cross-referenced material.

(4) Section 26 of this act updates a reference to a chapter that was renamed as a result of chapter 295, Laws of 2019.

Sec. 2. RCW 43.79A.040 and 2019 c 448 s 10, 2019 c 363 s 21, 2019 c 295 s 225, 2019 c 282 s 7, 2019 c 266 s 26, and 2019 c 157 s 4 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast

Washington wolf-livestock management account, ~~((the pilotage account,))~~ the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The ~~((advanced))~~ advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 3. RCW 43.84.092 and 2019 c 421 s 15, 2019 c 403 s 14, 2019 c 365 s 19, 2019 c 287 s 19, and 2019 c 95 s 6 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds

of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, ~~((the aircraft search and rescue account,))~~ the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, ~~((the Cedar River channel construction and operation account,))~~ the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, ~~((the department of licensing tuition recovery trust fund,))~~ the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance ~~((administrative))~~ account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, ~~((the federal forest revolving account,))~~ the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the highway bond retirement fund,

the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, (~~the industrial insurance premium refund account,~~) the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, (~~the mobile home park relocation fund,~~) the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, (~~the natural resources deposit account,~~) the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account (~~(beginning July 1, 2004)~~), the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, (~~the state employees' insurance account,~~ ~~the state employees' insurance reserve account,~~) the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the statewide broadband account, the statewide tourism marketing account, (~~the student achievement council tuition recovery trust fund,~~) the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, (~~the tuition recovery trust fund,~~) the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law

enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, (~~the Washington state health insurance pool account,~~) the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund(~~(, and the state reclamation revolving account))~~) shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 4. RCW 10.77.088 and 2019 c 326 s 5 and 2019 c 248 s 1 are each reenacted and amended to read as follows:

(1) If the defendant is charged with a nonfelony crime which is a serious offense as identified in RCW 10.77.092 and found by the court to be not competent, then the court:

(a) Shall dismiss the proceedings without prejudice and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW, unless the prosecutor objects to the dismissal and provides notice of a motion for an order for competency restoration, in which case the court shall schedule a hearing within seven days to determine whether to enter an order of competency restoration.

(b) At the hearing, the prosecuting attorney must establish that there is a compelling state interest to order competency restoration treatment for the defendant. The court may consider prior criminal history, prior history in treatment, prior history of violence, the quality and severity of the pending charges, any history that suggests whether or not competency restoration treatment is likely to be successful, in addition to the factors listed under RCW 10.77.092. If the prosecuting attorney proves by a preponderance of the evidence that there is a compelling state interest in ordering competency restoration, then the court shall order competency restoration in accordance with subsection (2)(a) of this section.

(2)(a) If a court finds pursuant to subsection (1)(b) of this section that there is a compelling state interest in pursuing competency restoration treatment, then the court shall commit the defendant to the custody of the secretary for

competency restoration. Based on a recommendation from a forensic navigator and input from the parties, the court may order the defendant to receive inpatient competency restoration or outpatient competency restoration.

(i) To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:

(A) Adhere to medications or receive prescribed intramuscular medication; and

(B) Abstain from alcohol and unprescribed drugs.

(ii) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration under (b) of this subsection.

(iii) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority, must establish rules for conditions of participation in the outpatient competency restoration program, which must include the defendant being subject to medication management and regular urinalysis testing for defendants who have a current substance use disorder diagnosis. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

(iv) If a defendant fails to comply with the restrictions of the outpatient competency restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the department shall remove the defendant from the outpatient restoration program. The department shall place the defendant instead in an appropriate facility of the department for inpatient competency restoration for no longer than twenty-nine days regardless of any time spent in outpatient competency restoration, in addition to reasonable time for transport to or from the facility. The department shall notify the court and parties of the change in placement before the close of the next judicial day. The court shall schedule a hearing within five days to review the placement and conditions of release of the defendant and issue appropriate orders. The standard of proof shall be a preponderance of the evidence, and the court may in its discretion render its decision based on written submissions, live testimony, or remote testimony.

(v) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

(b) The placement under (a) of this subsection shall not exceed twenty-nine days if the defendant is ordered to receive inpatient competency restoration, or shall not exceed ninety days if the defendant is ordered to receive outpatient competency restoration. The court may order any combination of this subsection, not to exceed ninety days. This period must be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility.

(c) If the court has determined or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in (d) of this subsection.

(d)(i) If the proceedings are dismissed under RCW 10.77.084 and the defendant was on conditional release at the time of dismissal, the court shall order the designated crisis responder within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.

(ii) If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two-hour period.

(3) If the defendant is charged with a nonfelony crime that is not a serious offense as defined in RCW 10.77.092 and found by the court to be not competent, the court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least twenty-four hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings.

~~((3))~~ (4) If at any time the court dismisses charges under subsections (1) ~~((or 2))~~ through (3) of this section, the court shall make a finding as to whether the defendant has a history of one or more violent acts. If the court so finds, the defendant is barred from the possession of firearms until a court restores his or her right to possess a firearm under RCW 9.41.047. The court shall state to the defendant and provide written notice that the defendant is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

Sec. 5. RCW 70.105D.030 and 2019 c 422 s 401 and 2019 c 95 s 3 are each reenacted and amended to read as follows:

(1) The department may exercise the following powers in addition to any other powers granted by law:

(a) Investigate, provide for investigating, or require potentially liable persons to investigate any releases or threatened releases of hazardous substances, including but not limited to inspecting, sampling, or testing to determine the nature or extent of any release or threatened release. If there is a reasonable basis to believe that a release or threatened release of a hazardous substance may exist, the department's authorized employees, agents, or contractors may enter upon any property and conduct investigations. The department shall give reasonable notice before entering property unless an emergency prevents such notice. The department may by subpoena require the attendance or testimony of witnesses and the production of documents or other information that the department deems necessary;

(b) Conduct, provide for conducting, or require potentially liable persons to conduct remedial actions (including investigations under (a) of this subsection) to remedy releases or threatened releases of hazardous substances. In carrying out such powers, the department's authorized employees, agents, or contractors may enter upon property. The department must give reasonable notice before entering property unless an emergency prevents such notice. In conducting, providing for, or requiring remedial action, the department must give preference to permanent solutions to the maximum extent practicable and must provide for or require adequate monitoring to ensure the effectiveness of the remedial action;

(c) Indemnify contractors retained by the department for carrying out investigations and remedial actions, but not for any contractor's reckless or willful misconduct;

(d) Carry out all state programs authorized under the federal cleanup law and the federal resource, conservation, and recovery act, 42 U.S.C. Sec. 6901 et seq., as amended;

(e) Classify substances as hazardous substances for purposes of RCW 70.105D.020 and classify substances and products as hazardous substances for purposes of RCW 82.21.020(1);

(f) Issue orders or enter into consent decrees or agreed orders that include, or issue written opinions under RCW 70.105D.180 that may be conditioned upon, environmental covenants where necessary to protect human health and the environment from a release or threatened release of a hazardous substance from a facility. Prior to establishing an environmental covenant under this subsection, the department must consult with and seek comment from a city or county department with land use planning authority for real property subject to the environmental covenant;

(g) Enforce the application of permanent and effective institutional controls that are necessary for a remedial action to be protective of human health and the environment and the notification requirements established in RCW 70.105D.110, and impose penalties for violations of that section consistent with RCW 70.105D.050;

(h) Require holders to conduct remedial actions necessary to abate an imminent or substantial endangerment pursuant to RCW 70.105D.020(22)(b)(ii)(C);

(i) In fulfilling the objectives of this chapter, the department must allocate staffing and financial assistance in a manner that considers both the reduction of human and environmental risks and the land reuse potential and planning for the facilities to be cleaned up. This does not preclude the department from allocating resources to a facility based solely on human or environmental risks;

(j) Establish model remedies for common categories of facilities, types of hazardous substances, types of media, or geographic areas to streamline and accelerate the selection of remedies for routine types of cleanups at facilities;

(i) When establishing a model remedy, the department must:

(A) Identify the requirements for characterizing a facility to select a model remedy, the applicability of the model remedy for use at a facility, and monitoring requirements;

(B) Describe how the model remedy meets clean-up standards and the requirements for selecting a remedy established by the department under this chapter; and

(C) Provide public notice and an opportunity to comment on the proposed model remedy and the conditions under which it may be used at a facility;

(ii) When developing model remedies, the department must solicit and consider proposals from qualified persons. The proposals must, in addition to describing the model remedy, provide the information required under (j)(i)(A) and (B) of this subsection;

(iii) If a facility meets the requirements for use of a model remedy, an analysis of the feasibility of alternative remedies is not required under this chapter. For department-conducted and department-supervised remedial actions, the department must provide public notice and consider public comments on the proposed use of a model remedy at a facility; and

(k) Take any other actions necessary to carry out the provisions of this chapter, including the power to adopt rules under chapter 34.05 RCW.

(2) The department must immediately implement all provisions of this chapter to the maximum extent practicable, including investigative and remedial actions where appropriate. The department must adopt, and thereafter enforce, rules under chapter 34.05 RCW to:

(a) Provide for public participation, including at least (i) public notice of the development of investigative plans or remedial plans for releases or threatened releases and (ii) concurrent public notice of all compliance orders, agreed orders, enforcement orders, or notices of violation;

(b) Establish a hazard ranking system for hazardous waste sites;

(c) Provide for requiring the reporting by an owner or operator of releases of hazardous substances to the environment that may be a threat to human health or the environment within ninety days of discovery, including such exemptions from reporting as the department deems appropriate, however this requirement may not modify any existing requirements provided for under other laws;

(d) Establish reasonable deadlines not to exceed ninety days for initiating an investigation of a hazardous waste site after the department receives notice or otherwise receives information that the site may pose a threat to human health or the environment and other reasonable deadlines for remedying releases or threatened releases at the site;

(e) Publish and periodically update minimum clean-up standards for remedial actions at least as stringent as the clean-up standards under section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621, and at least as stringent as all applicable state and federal laws, including health-based standards under state and federal law; and

(f) Apply industrial clean-up standards at industrial properties. Rules adopted under this subsection must ensure that industrial properties cleaned up to industrial standards cannot be converted to nonindustrial uses without approval from the department. The department may require that a property cleaned up to industrial standards is cleaned up to a more stringent applicable standard as a condition of conversion to a nonindustrial use. Industrial clean-up standards may not be applied to industrial properties where hazardous substances remaining at the property after remedial action pose a threat to human health or the environment in adjacent nonindustrial areas.

(3) To achieve and protect the state's long-term ecological health, the department must plan to clean up hazardous waste sites and prevent the creation of future hazards due to improper disposal of toxic wastes at a pace that matches the estimated cash resources in the model toxics control capital account. Estimated cash resources must consider the annual cash flow requirements of major projects that receive appropriations expected to cross multiple biennia.

(4) Before September 20th of each even-numbered year, the department must:

(a) Develop a comprehensive ten-year financing report in coordination with all local governments with clean-up responsibilities that identifies the projected biennial hazardous waste site remedial action needs that are eligible for funding from the model toxics control capital account;

(b) Work with local governments to develop working capital reserves to be incorporated in the ten-year financing report;

(c) Identify the projected remedial action needs for orphaned, abandoned, and other clean-up sites that are eligible for funding from the model toxics control capital account;

(d) Project the remedial action need, cost, revenue, and any recommended working capital reserve estimate to the next biennium's long-term remedial action needs from the model toxics control capital account, and submit this information to the appropriate standing fiscal and environmental committees of the senate and house of representatives. This submittal must also include a ranked list of such remedial action projects for the model toxics control capital account. The submittal must also identify separate budget estimates for large, multibiennia clean-up projects that exceed ten million dollars. The department must prepare its ten-year capital budget plan that is submitted to the office of financial management to reflect the separate budget estimates for these large clean-up projects and include information on the anticipated private and public funding obligations for completion of the relevant projects.

(5) By December 1st of each odd-numbered year, the department must provide the legislature and the public a report of the department's activities supported by appropriations from the model toxics control operating, capital, and stormwater accounts. The report must be prepared and displayed in a manner that allows the legislature and the public to easily determine the statewide and local progress made in cleaning up hazardous waste sites under this chapter. The report must include, at a minimum:

(a) The name, location, hazardous waste ranking, and a short description of each site on the hazardous sites list, and the date the site was placed on the hazardous waste sites list; and

(b) For sites where there are state contracts, grants, loans, or direct investments by the state:

(i) The amount of money from the model toxics control capital account used to conduct remedial actions at the site and the amount of that money recovered from potentially liable persons;

(ii) The actual or estimated start and end dates and the actual or estimated expenditures of funds authorized under this chapter for the following project phases:

(A) Emergency or interim actions, if needed;

(B) Remedial investigation;

- (C) Feasibility study and selection of a remedy;
- (D) Engineering design and construction of the selected remedy;
- (E) Operation and maintenance or monitoring of the constructed remedy;

and

- (F) The final completion date.

(6) The department must establish a program to identify potential hazardous waste sites and to encourage persons to provide information about hazardous waste sites.

(7) For all facilities where an environmental covenant has been required under subsection (1)(f) of this section, including all facilities where the department has required an environmental covenant under an order, agreed order, or consent decree, or as a condition of a written opinion issued under the authority of RCW 70.105D.180, the department must periodically review the environmental covenant for effectiveness. The department must conduct a review at least once every five years after an environmental covenant is recorded.

- (a) The review must consist of, at a minimum:

- (i) A review of the title of the real property subject to the environmental covenant to determine whether the environmental covenant was properly recorded and, if applicable, amended or terminated;

- (ii) A physical inspection of the real property subject to the environmental covenant to determine compliance with the environmental covenant, including whether any development or redevelopment of the real property has violated the terms of the environmental covenant; and

- (iii) A review of the effectiveness of the environmental covenant in limiting or prohibiting activities that may interfere with the integrity of the remedial action or that may result in exposure to or migration of hazardous substances. This must include a review of available monitoring data.

(b) If an environmental covenant has been amended or terminated without proper authority, or if the terms of an environmental covenant have been violated, or if the environmental covenant is no longer effective in limiting or prohibiting activities that may interfere with the integrity of the remedial action or that may result in exposure to or migration of hazardous substances, then the department must take any and all appropriate actions necessary to ensure compliance with the environmental covenant and the policies and requirements of this chapter.

Sec. 6. RCW 9.41.042 and 2003 c 53 s 27 are each amended to read as follows:

RCW 9.41.040(2)(a)(~~(iii)~~) (vi) shall not apply to any person under the age of eighteen years who is:

- (1) In attendance at a hunter's safety course or a firearms safety course;
- (2) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited;
- (3) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group that uses firearms as a part of the performance;

(4) Hunting or trapping under a valid license issued to the person under Title 77 RCW;

(5) In an area where the discharge of a firearm is permitted, is not trespassing, and the person either: (a) Is at least fourteen years of age, has been issued a hunter safety certificate, and is using a lawful firearm other than a pistol; or (b) is under the supervision of a parent, guardian, or other adult approved for the purpose by the parent or guardian;

(6) Traveling with any unloaded firearm in the person's possession to or from any activity described in subsection (1), (2), (3), (4), or (5) of this section;

(7) On real property under the control of his or her parent, other relative, or legal guardian and who has the permission of the parent or legal guardian to possess a firearm;

(8) At his or her residence and who, with the permission of his or her parent or legal guardian, possesses a firearm for the purpose of exercising the rights specified in RCW 9A.16.020(3); or

(9) Is a member of the armed forces of the United States, national guard, or organized reserves, when on duty.

Sec. 7. RCW 9A.42.010 and 2006 c 228 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Basic necessities of life" means food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

(2)(a) "Bodily injury" 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 high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily part or organ.

(3) "Child" means a person under eighteen years of age.

(4) "Dependent person" means a person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life. A resident of a nursing home, as defined in RCW 18.51.010, a resident of an adult family home, as defined in RCW 70.128.010, and a frail elder or vulnerable adult, as defined in RCW 74.34.020(~~((13))~~) (22), is presumed to be a dependent person for purposes of this chapter.

(5) "Employed" means hired by a dependent person, another person acting on behalf of a dependent person, or by an organization or governmental entity, to provide to a dependent person any of the basic necessities of life. A person may be "employed" regardless of whether the person is paid for the services or, if paid, regardless of who pays for the person's services.

(6) "Parent" has its ordinary meaning and also includes a guardian and the authorized agent of a parent or guardian.

(7) "Abandons" means leaving a child or other dependent person without the means or ability to obtain one or more of the basic necessities of life.

(8) "Good samaritan" means any individual or group of individuals who: (a) Is not related to the dependent person; (b) voluntarily provides assistance or services of any type to the dependent person; (c) is not paid, given gifts, or made a beneficiary of any assets valued at five hundred dollars or more, for any reason, by the dependent person, the dependent person's family, or the dependent person's estate; and (d) does not commit or attempt to commit any other crime against the dependent person or the dependent person's estate.

Sec. 8. RCW 13.40.0357 and 2019 c 322 s 8 are each amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
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Arson and Malicious Mischief

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+

Assault and Other Crimes Involving Physical Harm

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045) committed at age 15 or under	C+
A++	Drive-By Shooting (9A.36.045) committed at age 16 or 17	A
D+	Reckless Endangerment (9A.36.050)	E

C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

Burglary and Trespass

B+	Burglary 1 (9A.52.020) committed at age 15 or under	C+
A-	Burglary 1 (9A.52.020) committed at age 16 or 17	B+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E

Drugs

E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
E	Possession of Legend Drug (69.41.030(2)(b))	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Marihuana <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E

B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C

Firearms and Weapons

B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)((vi)) (<u>vi</u>))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E

Homicide

A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+

Kidnapping

A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+

Obstructing Governmental Operation

D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E

B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+

Public Disturbance

C+	Criminal Mischief with Weapon (9A.84.010(2)(b))	D+
D+	Criminal Mischief Without Weapon (9A.84.010(2)(a))	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E

Sex Crimes

A	Rape 1 (9A.44.040)	B+
B++	Rape 2 (9A.44.050) committed at age 14 or under	B+
A-	Rape 2 (9A.44.050) committed at age 15 through age 17	B+
C+	Rape 3 (9A.44.060)	D+
B++	Rape of a Child 1 (9A.44.073) committed at age 14 or under	B+
A-	Rape of a Child 1 (9A.44.073) committed at age 15	B+
B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
B++	Child Molestation 1 (9A.44.083) committed at age 14 or under	B+
A-	Child Molestation 1 (9A.44.083) committed at age 15 through age 17	B+
B	Child Molestation 2 (9A.44.086)	C+

C Failure to Register as a Sex Offender (9A.44.132) D

Theft, Robbery, Extortion, and Forgery

B Theft 1 (9A.56.030) C

C Theft 2 (9A.56.040) D

D Theft 3 (9A.56.050) E

B Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083) C

C Forgery (9A.60.020) D

A Robbery 1 (9A.56.200) committed at age 15 or under B+

A++ Robbery 1 (9A.56.200) committed at age 16 or 17 A

B+ Robbery 2 (9A.56.210) C+

B+ Extortion 1 (9A.56.120) C+

C+ Extortion 2 (9A.56.130) D+

C Identity Theft 1 (9.35.020(2)) D

D Identity Theft 2 (9.35.020(3)) E

D Improperly Obtaining Financial Information (9.35.010) E

B Possession of a Stolen Vehicle (9A.56.068) C

B Possession of Stolen Property 1 (9A.56.150) C

C Possession of Stolen Property 2 (9A.56.160) D

D Possession of Stolen Property 3 (9A.56.170) E

B Taking Motor Vehicle Without Permission 1 (9A.56.070) C

C Taking Motor Vehicle Without Permission 2 (9A.56.075) D

B Theft of a Motor Vehicle (9A.56.065) C

Motor Vehicle Related Crimes

E Driving Without a License (46.20.005) E

B+ Hit and Run - Death (46.52.020(4)(a)) C+

C Hit and Run - Injury (46.52.020(4)(b)) D

D Hit and Run-Attended (46.52.020(5)) E

E Hit and Run-Unattended (46.52.010) E

C Vehicular Assault (46.61.522) D

C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B+	Felony Driving While Under the Influence (46.61.502(6))	B
B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
Other		
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1 ¹ (9A.76.110)	C
C	Escape 2 ¹ (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) ²	V

¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 28 days confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

²If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D.

OPTION A

JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE

	A	129 to 260 weeks for all category A++ offenses				
	+					
	+					
	A	180 weeks to age 21 for all category A+ offenses				
	+					
	A	103-129 weeks for all category A offenses				
	A	30-40	52-65	80-100	103-129	103-129
	-	weeks	weeks	weeks	weeks	weeks
	B	15-36	52-65	80-100	103-129	103-129
	+	weeks	weeks	weeks	weeks	weeks
	+					
	B	15-36	15-36	52-65	80-100	103-129
	+	weeks	weeks	weeks	weeks	weeks
CURRENT	B	LS	LS	15-36	15-36	52-65
OFFENSE				weeks	weeks	weeks
CATEGORY	C	LS	LS	LS	15-36	15-36
	+				weeks	weeks
	C	LS	LS	LS	LS	15-36
						weeks
	D	LS	LS	LS	LS	LS
	+					
	D	LS	LS	LS	LS	LS
	E	LS	LS	LS	LS	LS
PRIOR		0	1	2	3	4 or more
ADJUDICATIONS						

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

OPTION B

SUSPENDED DISPOSITION ALTERNATIVE

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender:

(a) Is adjudicated of an A+ or A++ offense;

(b) Is fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060);

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2) (a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of a sex offense as defined in RCW 9.94A.030; or

(e) Has a prior option B disposition.

OR

OPTION C

**CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION
ALTERNATIVE**

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed a B++ or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

OR

OPTION D

MANIFEST INJUSTICE

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

Sec. 9. RCW 13.40.160 and 2011 c 338 s 2 are each amended to read as follows:

(1) The standard range disposition for a juvenile adjudicated of an offense is determined according to RCW 13.40.0357.

(a) When the court sentences an offender to a local sanction as provided in RCW 13.40.0357 option A, the court shall impose a determinate disposition within the standard ranges, except as provided in subsection (2), (3), (4), (5), or (6) of this section. The disposition may be comprised of one or more local sanctions.

(b) When the court sentences an offender to a standard range as provided in RCW 13.40.0357 option A that includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement, except as provided in subsection (2), (3), (4), (5), or (6) of this section.

(2) If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option D of RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. A disposition outside the standard range is appealable under RCW 13.40.230 by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230.

(3) If a juvenile offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW

9.94A.030, and has no history of a prior sex offense, the court may impose the special sex offender disposition alternative under RCW 13.40.162.

(4) If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose the disposition alternative under RCW 13.40.165.

(5) If a juvenile is subject to a commitment of 15 to 65 weeks of confinement, the court may impose the disposition alternative under RCW 13.40.167.

(6) When the offender is subject to a standard range commitment of 15 to 36 weeks and is ineligible for a suspended disposition alternative, a manifest injustice disposition below the standard range, special sex offender disposition alternative, chemical dependency disposition alternative, or mental health disposition alternative, the court in a county with a pilot program under RCW 13.40.169 may impose the disposition alternative under RCW 13.40.169.

(7) RCW 13.40.193 shall govern the disposition of any juvenile adjudicated of possessing a firearm in violation of RCW 9.41.040(2)(a)(~~(iii)~~) (vi) or any crime in which a special finding is entered that the juvenile was armed with a firearm.

(8) RCW 13.40.308 shall govern the disposition of any juvenile adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065, possession of a stolen motor vehicle as defined under RCW 9A.56.068, taking a motor vehicle without permission in the first degree under RCW 9A.56.070, and taking a motor vehicle without permission in the second degree under RCW 9A.56.075.

(9) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(10) Except as provided under subsection (3), (4), (5), or (6) of this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the court shall not suspend or defer the imposition or the execution of the disposition.

(11) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

Sec. 10. RCW 13.40.193 and 2019 c 64 s 4 are each amended to read as follows:

(1) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040(2)(a)(~~(iv)~~) (vi), the court shall impose a minimum disposition of ten days of confinement. If the offender's standard range of disposition for the offense as indicated in RCW 13.40.0357 is more than thirty days of confinement, the court shall commit the offender to the department for the standard range disposition. The offender shall not be released until the offender has served a minimum of ten days in confinement.

(2)(a) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040, the disposition must include a requirement that the respondent participate in a qualifying program as described in (b) of this subsection, when available, unless the court makes a written finding based on the outcome of the juvenile court risk assessment that participation in a qualifying program would not be appropriate.

(b) For purposes of this section, "qualifying program" means an aggression replacement training program, a functional family therapy program, or another

program applicable to the juvenile firearm offender population that has been identified as evidence-based or research-based and cost-beneficial in the current list prepared at the direction of the legislature by the Washington state institute for public policy.

(3) If the court finds that the respondent or an accomplice was armed with a firearm, the court shall determine the standard range disposition for the offense pursuant to RCW 13.40.160. If the offender or an accomplice was armed with a firearm when the offender committed any felony other than possession of a machine gun or bump-fire stock, possession of a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, or use of a machine gun or bump-fire stock in a felony, the following periods of total confinement must be added to the sentence: (a) Except for (b) of this subsection, for a class A felony, six months; for a class B felony, four months; and for a class C felony, two months; (b) for any violent offense as defined in RCW 9.94A.030, committed by a respondent who is sixteen or seventeen years old at the time of the offense, a period of twelve months. The additional time shall be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357.

(4)(a) If the court finds that the respondent who is sixteen or seventeen years old and committed the offense of robbery in the first degree, drive-by shooting, rape of a child in the first degree, burglary in the first degree, or any violent offense as defined in RCW 9.94A.030 and was armed with a firearm, and the court finds that the respondent's participation was related to membership in a criminal street gang or advancing the benefit, aggrandizement, gain, profit, or other advantage for a criminal street gang, a period of three months total confinement must be added to the sentence. The additional time must be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357 and must be served consecutively with any other sentencing enhancement.

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

(5) When a disposition under this section would effectuate a manifest injustice, the court may impose another disposition. When a judge finds a manifest injustice and imposes a disposition of confinement exceeding thirty days, the court shall commit the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. When a judge finds a manifest injustice and imposes a disposition of confinement less than thirty days, the disposition shall be comprised of confinement or community supervision or both.

(6) Any term of confinement ordered pursuant to this section shall run consecutively to any term of confinement imposed in the same disposition for other offenses.

Sec. 11. RCW 13.40.265 and 2016 c 136 s 6 are each amended to read as follows:

(1) If a juvenile thirteen years of age or older is found by juvenile court to have committed an offense while armed with a firearm or an offense that is a violation of RCW 9.41.040(2)(a)(~~(iv)~~) (vi) or chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court shall notify the department of licensing within twenty-four hours after entry of the judgment, unless the offense is the juvenile's first offense while armed with a firearm, first unlawful possession of a firearm offense, or first offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court may at any time the court deems appropriate notify the department of licensing that the juvenile's driving privileges should be reinstated.

(3) If the offense is the juvenile's second or subsequent violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the date the juvenile turns seventeen or one year after the date judgment was entered, whichever is later.

Sec. 12. RCW 28A.400.210 and 2000 c 231 s 1 are each amended to read as follows:

Every school district board of directors may, in accordance with chapters 41.56 and 41.59 RCW, establish an attendance incentive program for all certificated and classified employees in the following manner, including covering persons who were employed during the 1982-'83 school year:

(1) In January of the year following any year in which a minimum of sixty days of leave for illness or injury is accrued, and each January thereafter, any eligible employee may exercise an option to receive remuneration for unused leave for illness or injury accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued leave for illness or injury in excess of sixty days. Leave for illness or injury for which compensation has been received shall be deducted from accrued leave for illness or injury at the rate of four days for every one day's monetary compensation. No employee may receive compensation under this section for any portion of leave for illness or injury accumulated at a rate in excess of one day per month.

(2) Except as provided in RCW 28A.400.212, at the time of separation from school district employment an eligible employee or the employee's estate shall receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days accrued leave for illness or injury. For purposes of this subsection, "eligible employee" means (a) employees who separate from employment due to retirement or death; (b) employees who separate from employment and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(~~((40))~~) (33), or under the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010(~~((34))~~) (25); or (c) employees who separate from employment and who are at least age fifty-five and have at least fifteen years of service under the teachers' retirement system plan 2 as defined in RCW 41.32.010(~~((39))~~) (32), under the Washington school

employees' retirement system plan 2 as defined in RCW 41.35.010(~~((30))~~) (24), or under the public employees' retirement system plan 2 as defined in RCW 41.40.010(~~((34))~~) (28).

(3) In lieu of remuneration for unused leave for illness or injury as provided in subsections (1) and (2) of this section, a school district board of directors may, with equivalent funds, provide eligible employees a benefit plan that provides reimbursement for medical expenses. Any benefit plan adopted after July 28, 1991, shall require, as a condition of participation under the plan, that the employee sign an agreement with the district to hold the district harmless should the United States government find that the district or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the district not withholding or deducting any tax, assessment, or other payment on such funds as required under federal law.

Moneys or benefits received under this section shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

The superintendent of public instruction in its administration hereof, shall promulgate uniform rules and regulations to carry out the purposes of this section.

Should the legislature revoke any benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right.

Sec. 13. RCW 41.05.175 and 2011 c 159 s 2 are each amended to read as follows:

(1) Each health plan offered to public employees and their covered dependents under this chapter, including those subject to the provision of Title 48 RCW, and is issued or renewed beginning January 1, 2012, and provides coverage for cancer chemotherapy treatment must provide coverage for prescribed, self-administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis at least comparable to cancer chemotherapy medications administered by a health care provider or facility as defined in RCW 48.43.005 (~~((15) and (16))~~) (25) and (26).

(2) Nothing in this section may be interpreted to prohibit a health plan from administering a formulary or preferred drug list, requiring prior authorization, or imposing other appropriate utilization controls in approving coverage for any chemotherapy.

Sec. 14. RCW 43.09.025 and 1995 c 301 s 2 are each amended to read as follows:

The state auditor may appoint deputies and assistant directors as necessary to carry out the duties of the office of the state auditor. These individuals serve at the pleasure of the state auditor and are exempt from the provisions of chapter 41.06 RCW as stated in RCW 41.06.070(1)(~~((y))~~) (v).

Sec. 15. RCW 46.18.255 and 2011 c 171 s 71 are each amended to read as follows:

(1) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a horseless carriage license plate for a motor vehicle that is at least forty years old. The motor vehicle must be

operated primarily as a collector vehicle and be in good running order. The applicant for the horseless carriage license plate shall:

(a) Purchase a registration for the motor vehicle as required under chapters 46.16A and 46.17 RCW; and

(b) Pay the special license plate fee established under RCW 46.17.220(~~((+)(+))~~) (11), in addition to any other fees or taxes required by law.

(2) Horseless carriage license plates:

(a) Are valid for the life of the motor vehicle;

(b) Are not required to be renewed;

(c) Are not transferable to any other motor vehicle; and

(d) Must be displayed on the rear of the motor vehicle.

Sec. 16. RCW 46.18.265 and 2010 c 161 s 624 are each amended to read as follows:

(1) A registered owner who has a valid military affiliate radio system station license may apply to the department for special license plates for use on only one motor vehicle owned by the qualified applicant. The applicant must:

(a) Be a resident of this state;

(b) Provide a copy of the current official military affiliate radio system station license authorized by the department of defense and issued by the United States army, air force, navy, or marine corps;

(c) Be recorded as the registered owner of the motor vehicle on which the military affiliate radio system license plates will be displayed; and

(d) Pay the military affiliate radio system license plate fee required under RCW 46.17.220(~~((+)(+))~~) (14), in addition to any other fees or taxes required by law.

(2) A person who has been issued military affiliate radio system license plates as provided in this section must:

(a) Notify the department if the military affiliate radio system station license assigned is canceled or expires; and

(b) Provide a copy of the renewed military affiliate radio system station license to the department when it is renewed.

(3) Military affiliate radio system license plates:

(a) Are not available for motorcycles; and

(b) May be transferred from one motor vehicle to another motor vehicle owned by the military affiliate radio system operator upon application to the department, county auditor or other agent, or subagent appointed by the director.

Sec. 17. RCW 46.18.285 and 2011 c 171 s 72 are each amended to read as follows:

(1) A registered owner who uses a passenger motor vehicle for commuter ride sharing or ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, shall apply to the department, county auditor or other agent, or subagent appointed by the director for special ride share license plates. The registered owner must qualify for the tax exemptions provided in RCW 82.08.0287, 82.12.0282, or 82.44.015, and pay the special ride share license plate fee required under RCW 46.17.220(~~((+)(+))~~) (18) when the special ride share license plates are initially issued.

(2) The special ride share license plates:

(a) Must be of a distinguishing separate numerical series or design as defined by the department;

(b) Must be returned to the department when no longer in use or when the registered owner no longer qualifies for the tax exemptions provided in subsection (1) of this section; and

(c) Are not required to be renewed annually for motor vehicles described in RCW 46.16A.170.

(3) Special ride share license plates may be transferred from one motor vehicle to another motor vehicle as described in subsection (1) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

(4) Any person who knowingly makes a false statement of a material fact in the application for a special license plate under subsection (1) of this section is guilty of a gross misdemeanor.

Sec. 18. RCW 46.18.290 and 2011 c 332 s 9 are each amended to read as follows:

A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a square dancer license plate. The registered owner shall pay the special license plate fee required under RCW 46.17.220(~~((1)(g))~~) (27), in addition to any other fee or tax required by law. The square dancer license plate may be issued in lieu of standard issue or personalized license plates for motor vehicles required to display one or two license plates, but may not be issued for vehicles registered under chapter 46.87 RCW.

Sec. 19. RCW 48.20.389 and 2011 c 159 s 3 are each amended to read as follows:

(1) Each health plan issued or renewed on or after January 1, 2012, that provides coverage for cancer chemotherapy treatment must provide coverage for prescribed, self-administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis at least comparable to cancer chemotherapy medications administered by a health care provider or facility as defined in RCW 48.43.005 (~~((15) and (16))~~) (25) and (26).

(2) Nothing in this section may be interpreted to prohibit a health plan from administering a formulary or preferred drug list, requiring prior authorization, or imposing other appropriate utilization controls in approving coverage for any chemotherapy.

Sec. 20. RCW 48.21.223 and 2011 c 159 s 4 are each amended to read as follows:

(1) Each health plan issued or renewed on or after January 1, 2012, that provides coverage for cancer chemotherapy treatment must provide coverage for prescribed, self-administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis at least comparable to cancer chemotherapy medications administered by a health care provider or facility as defined in RCW 48.43.005 (~~((15) and (16))~~) (25) and (26).

(2) Nothing in this section may be interpreted to prohibit a health plan from administering a formulary or preferred drug list, requiring prior authorization, or imposing other appropriate utilization controls in approving coverage for any chemotherapy.

Sec. 21. RCW 48.44.323 and 2011 c 159 s 5 are each amended to read as follows:

(1) Each health plan issued or renewed on or after January 1, 2012, that provides coverage for cancer chemotherapy treatment must provide coverage for prescribed, self-administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis at least comparable to cancer chemotherapy medications administered by a health care provider or facility as defined in RCW 48.43.005 ~~((15) and (16))~~ (25) and (26).

(2) Nothing in this section may be interpreted to prohibit a health plan from administering a formulary or preferred drug list, requiring prior authorization, or imposing other appropriate utilization controls in approving coverage for any chemotherapy.

Sec. 22. RCW 48.46.274 and 2011 c 159 s 6 are each amended to read as follows:

(1) Each health plan issued or renewed on or after January 1, 2012, that provides coverage for cancer chemotherapy treatment must provide coverage for prescribed, self-administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis at least comparable to cancer chemotherapy medications administered by a health care provider or facility as defined in RCW 48.43.005 ~~((15) and (16))~~ (25) and (26).

(2) Nothing in this section may be interpreted to prohibit a health plan from administering a formulary or preferred drug list, requiring prior authorization, or imposing other appropriate utilization controls in approving coverage for any chemotherapy.

Sec. 23. RCW 64.50.010 and 2002 c 323 s 2 are each amended to read as follows:

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

(1) "Action" means any civil lawsuit or action in contract or tort for damages or indemnity brought against a construction professional to assert a claim, whether by complaint, counterclaim, or cross-claim, for damage or the loss of use of real or personal property caused by a defect in the construction of a residence or in the substantial remodel of a residence. "Action" does not include any civil action in tort alleging personal injury or wrongful death to a person or persons resulting from a construction defect.

(2) "Association" means an association, master association, or subassociation as defined and provided for in RCW 64.34.020(4), 64.34.276, 64.34.278, and 64.38.010 ~~((+))~~ (11).

(3) "Claimant" means a homeowner or association who asserts a claim against a construction professional concerning a defect in the construction of a residence or in the substantial remodel of a residence.

(4) "Construction professional" means an architect, builder, builder vendor, contractor, subcontractor, engineer, or inspector, including, but not limited to, a dealer as defined in RCW 64.34.020 ~~((+2))~~ and a declarant as defined in RCW 64.34.020 ~~((+3))~~, performing or furnishing the design, supervision, inspection, construction, or observation of the construction of any improvement to real property, whether operating as a sole proprietor, partnership, corporation, or other business entity.

(5) "Homeowner" means: (a) Any person, company, firm, partnership, corporation, or association who contracts with a construction professional for the construction, sale, or construction and sale of a residence; and (b) an "association" as defined in this section. "Homeowner" includes, but is not limited to, a subsequent purchaser of a residence from any homeowner.

(6) "Residence" means a single-family house, duplex, triplex, quadraplex, or a unit in a multiunit residential structure in which title to each individual unit is transferred to the owner under a condominium or cooperative system, and shall include common elements as defined in RCW 64.34.020(~~((+))~~) and common areas as defined in RCW 64.38.010(4).

(7) "Serve" or "service" means personal service or delivery by certified mail to the last known address of the addressee.

(8) "Substantial remodel" means a remodel of a residence, for which the total cost exceeds one-half of the assessed value of the residence for property tax purposes at the time the contract for the remodel work was made.

Sec. 24. RCW 69.50.414 and 1986 c 124 s 10 are each amended to read as follows:

The parent or legal guardian of any minor to whom a controlled substance, as defined in RCW 69.50.101, is sold or transferred, shall have a cause of action against the person who sold or transferred the controlled substance for all damages to the minor or his or her parent or legal guardian caused by such sale or transfer. Damages shall include: (a) Actual damages, including the cost for treatment or rehabilitation of the minor child's drug dependency, (b) forfeiture to the parent or legal guardian of the cash value of any proceeds received from such sale or transfer of a controlled substance, and (c) reasonable attorney fees.

This section shall not apply to a practitioner, as defined in RCW 69.50.101(~~((+))~~), who sells or transfers a controlled substance to a minor pursuant to a valid prescription or order.

Sec. 25. RCW 69.52.030 and 1983 1st ex.s. c 4 s 5 are each amended to read as follows:

(1) It is unlawful for any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. Any person who violates this subsection shall, upon conviction, be guilty of a class C felony.

(2) Any person eighteen years of age or over who violates subsection (1) of this section by distributing an imitation controlled substance to a person under eighteen years of age is guilty of a class B felony.

(3) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale imitation controlled substances. Any person who violates this subsection is guilty of a class C felony.

(4) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the Uniform Controlled Substances Act pursuant to RCW 69.50.301 or 69.50.303 who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in RCW 69.50.101(~~((+))~~), in the course of professional practice or research.

(5) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a

label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact.

Sec. 26. RCW 28B.76.540 and 2019 c 406 s 40 are each amended to read as follows:

In addition to administrative responsibilities assigned in this chapter, the office shall administer the programs set forth in the following statutes: RCW 28A.600.100 through 28A.600.150 (Washington scholars); chapter 28B.85 RCW (degree-granting institutions); chapter 28B.92 RCW (Washington college grant); chapter 28B.12 RCW (work-study); RCW 28B.15.543 (grants for undergraduate coursework); RCW 28B.15.760 through 28B.15.766 (math and science loans); RCW 28B.15.100 (reciprocity agreement); RCW 28B.15.730 through 28B.15.734 (Oregon reciprocity); RCW 28B.15.750 and 28B.15.752 (Idaho reciprocity); RCW 28B.15.756 (British Columbia reciprocity); chapter 28B.101 RCW (educational opportunity grant); chapter 28B.102 RCW (~~future teachers~~) educator conditional scholarship and repayment programs; chapter 28B.108 RCW (American Indian endowed scholarship); chapter 28B.109 RCW (Washington international exchange scholarship); chapter 28B.115 RCW (health professional conditional scholarship); and chapter 28B.133 RCW (gaining independence for students with dependents).

Passed by the House February 19, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 19

[Engrossed Substitute House Bill 2231]

BAIL JUMPING--FAILURE TO APPEAR OR SURRENDER

AN ACT Relating to bail jumping; amending RCW 9A.76.170; adding a new section to chapter 9A.76 RCW; and prescribing penalties.

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

Sec. 1. RCW 9A.76.170 and 2001 c 264 s 3 are each amended to read as follows:

(1) (~~Any person having been~~) A person is guilty of bail jumping if he or she:

(a) Is released by court order or admitted to bail (~~with knowledge~~), has received written notice of the requirement of a subsequent personal appearance for trial before any court of this state, and fails to appear for trial as required; or

(b)(i) Is held for, charged with, or convicted of a violent offense or sex offense, as those terms are defined in RCW 9.94A.030, is released by court order or admitted to bail, has received written notice of the requirement of a subsequent personal appearance before any court of this state or of the requirement to report to a correctional facility for service of sentence, and (~~who~~) fails to appear or (~~who~~) fails to surrender for service of sentence as required (~~is guilty of bail jumping~~); and

(ii) (A) Within thirty days of the issuance of a warrant for failure to appear or surrender, does not make a motion with the court to quash the warrant, and if a

motion is made under this subsection, he or she does not appear before the court with respect to the motion; or

(B) Has had a prior warrant issued based on a prior incident of failure to appear or surrender for the present cause for which he or she is being held or charged or has been convicted.

(2) It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering, and that the person did not contribute to the creation of such circumstances (~~(in reckless disregard of)~~ by negligently disregarding the requirement to appear or surrender, and that the person appeared or surrendered as soon as such circumstances ceased to exist.

(3) Bail jumping is:

(a) A class A felony if the person was held for, charged with, or convicted of murder in the first degree;

(b) A class B felony if the person was held for, charged with, or convicted of a class A felony other than murder in the first degree;

(c) A class C felony if the person was held for, charged with, or convicted of a class B or class C felony; or

(d) A misdemeanor if the person was held for, charged with, or convicted of a gross misdemeanor or misdemeanor.

NEW SECTION. Sec. 2. A new section is added to chapter 9A.76 RCW to read as follows:

(1)(a) A person is guilty of failure to appear or surrender if he or she is released by court order or admitted to bail, has received written notice of the requirement of a subsequent personal appearance before any court of this state or of the requirement to report to a correctional facility for service of sentence, and fails to appear or fails to surrender for service of sentence as required; and

(b)(i) Within thirty days of the issuance of a warrant for failure to appear or surrender, does not make a motion with the court to quash the warrant, and if a motion is made under this subsection, he or she does not appear before the court with respect to the motion; or

(ii) Has had a prior warrant issued based on a prior incident of failure to appear or surrender for the present cause for which he or she is being held or charged or has been convicted.

(2) It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering, that the person did not contribute to the creation of such circumstances by negligently disregarding the requirement to appear or surrender, and that the person appeared or surrendered as soon as such circumstances ceased to exist.

(3) Failure to appear or surrender is:

(a) A gross misdemeanor if the person was held for, charged with, or convicted of a felony; or

(b) A misdemeanor if the person was held for, charged with, or convicted of a gross misdemeanor or misdemeanor.

Passed by the House March 7, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 20

[Substitute House Bill 2246]

ENVIRONMENTAL HEALTH LAW REORGANIZATION

AN ACT Relating to the reorganization of laws related to environmental health without making any substantive, policy changes; amending RCW 15.54.325, 15.54.820, 19.405.020, 35.21.120, 35.21.135, 35.21.154, 35.21.156, 35.21.157, 35.21.409, 35.21.755, 35.22.625, 35.23.351, 35.92.020, 35.94.050, 35A.21.152, 35A.21.153, 35A.21.324, 36.32.120, 36.32.304, 36.34.192, 36.58.040, 36.58.045, 36.58.050, 36.58A.010, 36.70A.130, 36.70A.200, 36.93.090, 36.94.010, 43.21A.020, 43.21A.175, 43.21A.702, 43.21A.711, 43.21B.130, 43.21B.260, 43.21B.300, 43.21C.036, 43.21C.0381, 43.21C.210, 43.21F.090, 43.27A.190, 43.37.050, 43.37.080, 43.37.110, 43.37.140, 43.37.170, 43.37.220, 43.41.270, 43.131.394, 43.146.900, 43.200.070, 43.200.080, 43.200.170, 43.200.180, 43.200.220, 43.200.230, 43.200.233, 43.200.235, 43.200.905, 43.200.907, 64.70.020, 64.70.040, 70.05.070, 70.75A.040, 70.75A.060, 70.76.020, 70.76.030, 70.76.040, 70.76.050, 70.76.090, 70.76.100, 70.93.095, 70.93.200, 70.93.220, 70.93.250, 70.94.015, 70.94.030, 70.94.040, 70.94.041, 70.94.053, 70.94.069, 70.94.100, 70.94.130, 70.94.142, 70.94.143, 70.94.151, 70.94.153, 70.94.154, 70.94.161, 70.94.162, 70.94.163, 70.94.165, 70.94.181, 70.94.211, 70.94.231, 70.94.262, 70.94.302, 70.94.331, 70.94.332, 70.94.335, 70.94.385, 70.94.390, 70.94.400, 70.94.410, 70.94.422, 70.94.430, 70.94.431, 70.94.435, 70.94.450, 70.94.453, 70.94.460, 70.94.463, 70.94.467, 70.94.473, 70.94.475, 70.94.477, 70.94.480, 70.94.483, 70.94.524, 70.94.527, 70.94.528, 70.94.531, 70.94.534, 70.94.541, 70.94.544, 70.94.551, 70.94.640, 70.94.6512, 70.94.6514, 70.94.6516, 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, 70.94.6528, 70.94.6530, 70.94.6532, 70.94.6534, 70.94.6538, 70.94.6540, 70.94.6542, 70.94.6546, 70.94.6548, 70.94.6552, 70.94.6554, 70.94.6556, 70.94.715, 70.94.725, 70.94.730, 70.94.785, 70.94.805, 70.94.850, 70.94.892, 70.94.960, 70.94.990, 70.95.030, 70.95.065, 70.95.092, 70.95.095, 70.95.100, 70.95.110, 70.95.130, 70.95.150, 70.95.160, 70.95.167, 70.95.170, 70.95.185, 70.95.190, 70.95.205, 70.95.207, 70.95.218, 70.95.240, 70.95.250, 70.95.270, 70.95.280, 70.95.285, 70.95.290, 70.95.295, 70.95.315, 70.95.330, 70.95.400, 70.95.420, 70.95.430, 70.95.510, 70.95.530, 70.95.532, 70.95.535, 70.95.550, 70.95.555, 70.95.560, 70.95.610, 70.95.630, 70.95.650, 70.95.660, 70.95.670, 70.95.715, 70.95.807, 70.95.815, 70.95A.070, 70.95A.100, 70.95B.060, 70.95B.090, 70.95B.095, 70.95B.120, 70.95B.151, 70.95C.010, 70.95C.020, 70.95C.030, 70.95C.040, 70.95C.070, 70.95C.210, 70.95C.220, 70.95C.230, 70.95D.010, 70.95E.010, 70.95E.020, 70.95E.030, 70.95E.040, 70.95E.050, 70.95E.080, 70.95E.090, 70.95F.020, 70.95F.030, 70.95G.030, 70.95G.040, 70.95G.060, 70.95I.010, 70.95I.020, 70.95I.030, 70.95I.040, 70.95I.060, 70.95I.070, 70.95I.010, 70.95I.090, 70.95K.010, 70.95K.011, 70.95L.010, 70.95L.040, 70.95M.080, 70.95M.110, 70.95N.040, 70.95N.060, 70.95N.070, 70.95N.080, 70.95N.130, 70.95N.170, 70.95N.180, 70.95N.190, 70.95N.200, 70.95N.230, 70.95N.260, 70.95N.280, 70.95N.300, 70.95N.310, 70.98.020, 70.98.085, 70.98.095, 70.98.098, 70.98.122, 70.98.220, 70.98.910, 70.99.050, 70.102.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.105.005, 70.105.010, 70.105.020, 70.105.035, 70.105.050, 70.105.090, 70.105.105, 70.105.110, 70.105.111, 70.105.112, 70.105.116, 70.105.135, 70.105.140, 70.105.145, 70.105.160, 70.105.165, 70.105.170, 70.105.180, 70.105.200, 70.105.210, 70.105.220, 70.105.221, 70.105.225, 70.105.235, 70.105.240, 70.105.250, 70.105.270, 70.105.280, 70.105.310, 70.105D.040, 70.105D.050, 70.105D.055, 70.105D.060, 70.105D.080, 70.105D.090, 70.105D.110, 70.105D.130, 70.105D.140, 70.105D.160, 70.105D.180, 70.105D.190, 70.105D.200, 70.105D.210, 70.106.030, 70.106.070, 70.106.100, 70.106.110, 70.107.070, 70.116.050, 70.116.060, 70.116.070, 70.118.060, 70.118.070, 70.118.080, 70.118.130, 70.118A.020, 70.118A.040, 70.118A.050, 70.118A.070, 70.118A.080, 70.118A.090, 70.118B.005, 70.118B.020, 70.118B.030, 70.119.030, 70.119.050, 70.119.060, 70.119.070, 70.119.090, 70.119.100, 70.119.120, 70.119.130, 70.119.150, 70.119.170, 70.119A.030, 70.119A.050, 70.119A.060, 70.119A.110, 70.119A.120, 70.119A.190, 70.120.010, 70.120.070, 70.120.080, 70.120.120, 70.120.130, 70.120.190, 70.120A.010, 70.120A.020, 70.121.020, 70.121.050, 70.121.060, 70.121.070, 70.121.080, 70.121.110, 70.138.010, 70.138.020, 70.138.030, 70.142.050, 70.146.030, 70.146.060, 70.146.070, 70.146.100, 70.146.110, 70.148.020, 70.148.025, 70.148.070, 70.149.030, 70.149.040, 70.149.070, 70.149.120, 70.150.030, 70.150.070, 70.164.020, 70.164.030, 70.220.020, 70.220.030, 70.220.050, 70.235.005, 70.235.020, 70.235.030, 70.235.040, 70.235.050, 70.235.060, 70.235.070, 70.235.080, 70.240.025, 70.240.035, 70.240.040, 70.240.050, 70.260.010, 70.270.030, 70.270.040, 70.270.050, 70.275.030, 70.275.040, 70.275.050, 70.275.160, 70.280.040, 70.280.050, 70.285.020, 70.285.040, 70.285.050,

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reenacting and amending RCW 15.54.270, 43.21B.110, 43.21B.110, 43.200.015, 70.93.180, 70.94.152, 70.95.090, 70.95N.020, 70.95N.140, 70.105D.020, 70.105D.030, 70.119A.020, 70.240.010, 70.275.020, 70.365.010, 88.40.011, and 90.56.010; adding a new title to the Revised Code of Washington to be codified as Title 70A RCW; creating new sections; recodifying RCW 43.21M.010, 43.21M.020, 43.21M.030, 43.21M.040, 43.21M.900, 43.37.010, 43.37.030, 43.37.040, 43.37.050, 43.37.060, 43.37.080, 43.37.090, 43.37.100, 43.37.110, 43.37.120, 43.37.130, 43.37.140, 43.37.150, 43.37.160, 43.37.170, 43.37.180, 43.37.190, 43.37.200, 43.37.210, 43.37.215, 43.37.220, 43.37.910, 43.145.010, 43.145.020, 43.145.030, 43.146.010, 43.146.900, 43.200.010, 43.200.015, 43.200.020, 43.200.030, 43.200.070, 43.200.080, 43.200.170, 43.200.180, 43.200.190, 43.200.200, 43.200.220, 43.200.230, 43.200.233, 43.200.235, 43.200.900, 43.200.901, 43.200.905, 43.200.907, 43.205.010, 43.205.020, 70.75A.005, 70.75A.010, 70.75A.020, 70.75A.030, 70.75A.040, 70.75A.050, 70.75A.060, 70.76.005, 70.76.010, 70.76.020, 70.76.030, 70.76.040, 70.76.050, 70.76.060, 70.76.070, 70.76.080, 70.76.090, 70.76.100, 70.76.110, 70.93.010, 70.93.020, 70.93.030, 70.93.040, 70.93.050, 70.93.060, 70.93.070, 70.93.080, 70.93.090, 70.93.093, 70.93.095, 70.93.097, 70.93.110, 70.93.180, 70.93.200, 70.93.210, 70.93.220, 70.93.230, 70.93.250, 70.93.910, 70.94.011, 70.94.015, 70.94.017, 70.94.030, 70.94.033, 70.94.035, 70.94.037, 70.94.040, 70.94.041, 70.94.053, 70.94.055, 70.94.057, 70.94.068, 70.94.069, 70.94.070, 70.94.081, 70.94.085, 70.94.091, 70.94.092, 70.94.093, 70.94.094, 70.94.095, 70.94.096, 70.94.097, 70.94.100, 70.94.110, 70.94.120, 70.94.130, 70.94.141, 70.94.142, 70.94.143, 70.94.151, 70.94.152, 70.94.153, 70.94.154, 70.94.155, 70.94.157, 70.94.161, 70.94.162, 70.94.163, 70.94.165, 70.94.170, 70.94.181, 70.94.200, 70.94.205, 70.94.211, 70.94.221, 70.94.230, 70.94.231, 70.94.240, 70.94.260, 70.94.262, 70.94.302, 70.94.331, 70.94.332, 70.94.335, 70.94.350, 70.94.370, 70.94.380, 70.94.385, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, 70.94.420, 70.94.422, 70.94.425, 70.94.430, 70.94.431, 70.94.435, 70.94.440, 70.94.450, 70.94.453, 70.94.455, 70.94.457, 70.94.460, 70.94.463, 70.94.467, 70.94.470, 70.94.473, 70.94.475, 70.94.477, 70.94.480, 70.94.483, 70.94.488, 70.94.510, 70.94.521, 70.94.524, 70.94.527, 70.94.528, 70.94.531, 70.94.534, 70.94.537, 70.94.541, 70.94.544, 70.94.547, 70.94.551, 70.94.555, 70.94.600, 70.94.610, 70.94.620, 70.94.640, 70.94.645, 70.94.6511, 70.94.6512, 70.94.6514, 70.94.6516, 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, 70.94.6526, 70.94.6528, 70.94.6530, 70.94.6532, 70.94.6534, 70.94.6536, 70.94.6538, 70.94.6540, 70.94.6542, 70.94.6544, 70.94.6546, 70.94.6548, 70.94.6550, 70.94.6552, 70.94.6554, 70.94.6556, 70.94.710, 70.94.715, 70.94.720, 70.94.725, 70.94.730, 70.94.785, 70.94.800, 70.94.805, 70.94.820, 70.94.850, 70.94.860, 70.94.875, 70.94.880, 70.94.892, 70.94.901, 70.94.902, 70.94.904, 70.94.911, 70.94.960, 70.94.970, 70.94.980, 70.94.990, 70.94.991, 70.94.992, 70.95.010, 70.95.020, 70.95.030, 70.95.055, 70.95.060, 70.95.065, 70.95.075, 70.95.080, 70.95.090, 70.95.092, 70.95.094, 70.95.095, 70.95.096, 70.95.100, 70.95.110, 70.95.130, 70.95.140, 70.95.150, 70.95.160, 70.95.165, 70.95.167, 70.95.170, 70.95.180, 70.95.185, 70.95.190, 70.95.200, 70.95.205, 70.95.207, 70.95.210, 70.95.212, 70.95.215, 70.95.217, 70.95.218, 70.95.220, 70.95.230, 70.95.235, 70.95.240, 70.95.250, 70.95.255, 70.95.260, 70.95.263, 70.95.265, 70.95.267, 70.95.268, 70.95.270, 70.95.280, 70.95.285, 70.95.290, 70.95.295, 70.95.300, 70.95.305, 70.95.306, 70.95.310, 70.95.315, 70.95.320, 70.95.330, 70.95.400, 70.95.410, 70.95.420, 70.95.430, 70.95.440, 70.95.500, 70.95.510, 70.95.515, 70.95.521, 70.95.530, 70.95.532, 70.95.535, 70.95.540, 70.95.550, 70.95.555, 70.95.560, 70.95.565, 70.95.570, 70.95.600, 70.95.610, 70.95.620, 70.95.630, 70.95.640, 70.95.650, 70.95.660, 70.95.670, 70.95.700, 70.95.710, 70.95.715, 70.95.720, 70.95.725, 70.95.805, 70.95.807, 70.95.810, 70.95.815, 70.95.900, 70.95.903, 70.95.904, 70.95A.010, 70.95A.020, 70.95A.030, 70.95A.035, 70.95A.040, 70.95A.045, 70.95A.050, 70.95A.060, 70.95A.070, 70.95A.080, 70.95A.090, 70.95A.100, 70.95A.910, 70.95A.912, 70.95A.930, 70.95B.010, 70.95B.020, 70.95B.030, 70.95B.040, 70.95B.050, 70.95B.060, 70.95B.071, 70.95B.080, 70.95B.090, 70.95B.095, 70.95B.100, 70.95B.110, 70.95B.115, 70.95B.120, 70.95B.130, 70.95B.140, 70.95B.151, 70.95B.900, 70.95C.010, 70.95C.020, 70.95C.030, 70.95C.040, 70.95C.050, 70.95C.060, 70.95C.070, 70.95C.080, 70.95C.110, 70.95C.120, 70.95C.200, 70.95C.210, 70.95C.220, 70.95C.230, 70.95C.240, 70.95C.250, 70.95D.010,

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

NEW SECTION. Sec. 101. This act is intended to make technical amendments to certain codified statutes that involve environmental and public health. Any statutory changes made by this act should be interpreted as technical in nature and not interpreted to have any substantive, policy implications.

NEW SECTION. Sec. 102. (1) A rule adopted under authority provided in a chapter that is recodified under this act remains valid and is not affected by the recodification in this act.

(2) State agencies, local air authorities, local boards of health, and other local governments that have adopted rules that rely upon or otherwise reference an authority provided in a chapter that is recodified by this act are encouraged to update affected rules to reflect new statutory references compelled by the recodification by July 1, 2025.

NEW SECTION. Sec. 103. A new title is added to the Revised Code of Washington to be codified as Title 70A RCW.

NEW SECTION. Sec. 104. Sections 1446 through 1450 of this act take effect July 1, 2020.

NEW SECTION. Sec. 105. Section 1034 of this act expires June 30, 2021.

NEW SECTION. Sec. 106. Section 1035 of this act takes effect June 30, 2021.

Sec. 1001. RCW 15.54.270 and 2011 c 73 s 1 are each reenacted and amended to read as follows:

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

(1) "Brand" means a term, design, or trademark used in connection with the distribution and sale of one or more grades of commercial fertilizers.

(2) "Bulk fertilizer" means commercial fertilizer distributed in a nonpackaged form such as, but not limited to, tote bags, tote tanks, bins, tanks, trailers, spreader trucks, and railcars.

(3) "Calcium carbonate equivalent" means the acid-neutralizing capacity of an agricultural liming material expressed as a weight percentage of calcium carbonate.

(4) "Commercial fertilizer" means a substance containing one or more recognized plant nutrients and that is used for its plant nutrient content or that is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures. It does not include unmanipulated animal and vegetable manures, organic waste-derived material, and other products exempted by the department by rule.

(5) "Composting" means the controlled aerobic degradation of organic waste materials. Natural decay of organic waste under uncontrolled conditions is not composting.

(6) "Customer-formula fertilizer" means a mixture of commercial fertilizer or materials of which each batch is mixed according to the specifications of the final purchaser.

(7) "Department" means the department of agriculture of the state of Washington or its duly authorized representative.

(8) "Director" means the director of the department of agriculture.

(9) "Distribute" means to import, consign, manufacture, produce, compound, mix, or blend commercial fertilizer, or to offer for sale, sell, barter, exchange, or otherwise supply commercial fertilizer in this state.

(10) "Distributor" means a person who distributes.

(11) "Fertilizer material" means a commercial fertilizer that either:

(a) Contains important quantities of no more than one of the primary plant nutrients: Nitrogen, phosphate, and potash;

(b) Has eighty-five percent or more of its plant nutrient content present in the form of a single chemical compound; or

(c) Is derived from a plant or animal residue or by-product or natural material deposit that has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration.

(12) "Grade" means the percentage of total nitrogen, available phosphoric acid, and soluble potash stated in whole numbers in the same terms, order, and percentages as in the "guaranteed analysis," unless otherwise allowed by a rule adopted by the department. Specialty fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or potash. Fertilizer materials, bone meal, manures, and similar materials may be guaranteed in fractional units.

(13) "Guaranteed analysis."

(a) Until the director prescribes an alternative form of "guaranteed analysis" by rule the term "guaranteed analysis" shall mean the minimum percentage of plant nutrients claimed in the following order and form:

Total nitrogen (N)	percent
Available phosphoric acid (P ₂ O ₅)	percent

Soluble potash (K₂O) percent

The percentage shall be stated in whole numbers unless otherwise allowed by the department by rule.

The "guaranteed analysis" may also include elemental guarantees for phosphorus (P) and potassium (K).

(b) For unacidulated mineral phosphatic material and basic slag, bone, tankage, and other organic phosphatic materials, the total phosphoric acid or degree of fineness may also be guaranteed.

(c) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium shall be as allowed or required by rule of the department. The guarantees for such other nutrients shall be expressed in the form of the element.

(d) The guaranteed analysis for limes shall include the percentage of calcium or magnesium expressed as their carbonate; the calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists; and the minimum percentage of material that will pass respectively a one hundred mesh, sixty mesh, and ten mesh sieve. The mesh size declaration may also include the percentage of material that will pass additional mesh sizes.

(e) In commercial fertilizer, the principal constituent of which is calcium sulfate (gypsum), the percentage of calcium sulfate (CaSO₄·2H₂O) shall be given along with the percentage of total sulfur.

(14) "Imported fertilizer" means any fertilizer distributed into Washington from any other state, province, or country.

(15) "Label" means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying a fertilizer.

(16) "Labeling" includes all written, printed, or graphic matter, upon or accompanying a commercial fertilizer, or advertisement, brochures, posters, television, and radio announcements used in promoting the sale of such fertilizer.

(17) "Licensee" means the person who receives a license to distribute a commercial fertilizer under the provisions of this chapter.

(18) "Lime" means a substance or a mixture of substances, the principal constituent of which is calcium or magnesium carbonate, hydroxide, or oxide, singly or combined.

(19) "Manipulation" means processed or treated in any manner, including drying to a moisture content less than thirty percent.

(20) "Manufacture" means to compound, produce, granulate, mix, blend, repackage, or otherwise alter the composition of fertilizer materials.

(21) "Micronutrients" are: Boron; chlorine; cobalt; copper; iron; manganese; molybdenum; sodium; and zinc.

(22) "Micronutrient fertilizer" means a produced or imported commercial fertilizer that contains commercially valuable concentrations of micronutrients but does not contain commercially valuable concentrations of nitrogen, phosphoric acid, available phosphorus, potash, calcium, magnesium, or sulfur.

(23) "Official sample" means a sample of commercial fertilizer taken by the department and designated as "official" by the department.

(24) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings, and other vegetative wastes, uncontaminated

wood waste from logging and milling operations, food wastes, food processing wastes, and materials derived from these wastes through composting. "Organic waste-derived material" does not include products that include biosolids.

(25) "Packaged fertilizer" means commercial fertilizers, either agricultural or specialty, distributed in nonbulk form.

(26) "Person" means an individual, firm, brokerage, partnership, corporation, company, society, or association.

(27) "Percent" or "percentage" means the percentage by weight.

(28) "Produce" means to compound or fabricate a commercial fertilizer through a physical or chemical process, or through mining. "Produce" does not include mixing, blending, or repackaging commercial fertilizer products.

(29) "Registrant" means the person who registers commercial fertilizer under the provisions of this chapter.

(30) "Specialty fertilizer" means a commercial fertilizer distributed primarily for nonfarm use, such as, but not limited to, use on home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.

(31) "Ton" means the net weight of two thousand pounds avoirdupois.

(32) "Total nutrients" means the sum of the percentages of total nitrogen, available phosphoric acid, and soluble potash as guaranteed and as determined by analysis.

(33)(a) "Turf" means land, including residential property, commercial property, and publicly owned land, which is planted in closely mowed, managed grass.

(b) "Turf" does not include pasture land, land used to grow grass for sod, or any other land used for agricultural production or residential vegetable or flower gardening.

(34) "Turf fertilizer" means a commercial fertilizer that is labeled for use on turf.

(35) "Washington application rate" is calculated by using an averaging period of up to four consecutive years that incorporates agronomic rates that are representative of soil, crop rotation, and climatic conditions in Washington state.

(36) "Waste-derived fertilizer" means a commercial fertilizer that is derived in whole or in part from solid waste as defined in chapter 70.95 or 70.105 RCW (as recodified by this act), or rules adopted thereunder, but does not include fertilizers derived from biosolids or biosolids products regulated under chapter 70.95J RCW (as recodified by this act) or wastewaters regulated under chapter 90.48 RCW.

Sec. 1002. RCW 15.54.325 and 2008 c 292 s 1 are each amended to read as follows:

(1) No person may distribute in this state a commercial fertilizer until it has been registered with the department by the producer, importer, or packager of that product.

(2) An application for registration must be made on a form furnished by the department and must include the following:

- (a) The product name;
- (b) The brand and grade;
- (c) The guaranteed analysis;
- (d) Name, address, and phone number of the registrant;

(e) A label for each product being registered;

(f) Identification of those products that are (i) waste-derived fertilizers, (ii) micronutrient fertilizers, or (iii) fertilizer materials containing phosphate;

(g) The concentration of each metal, for which standards are established under RCW 15.54.800, in each product being registered, unless the product is (i) anhydrous ammonia or a solution derived solely from dissolving anhydrous ammonia in water, (ii) a customer-formula fertilizer containing only registered commercial fertilizers, or (iii) a packaged commercial fertilizer whose plant nutrient content is present in the form of a single chemical compound which is registered in compliance with this chapter and the product is not blended with any other material. The provisions of (g)(i) of this subsection do not apply if the anhydrous ammonia is derived in whole or in part from waste such that the fertilizer is a "waste-derived fertilizer" as defined in RCW 15.54.270. Verification of a registration relied on by an applicant under (g)(iii) of this subsection must be submitted with the application;

(h) If a waste-derived fertilizer or micronutrient fertilizer, information to ensure the product complies with chapter 70.105 RCW (as recodified by this act) and the resource conservation and recovery act, 42 U.S.C. Sec. 6901 et seq.; and

(i) Any other information required by the department by rule.

(3) All companies planning to mix customer-formula fertilizers shall include the statement "customer-formula grade mixes" under the column headed "product name" on the product registration application form. All customer-formula fertilizers sold under one brand name shall be considered one product.

(4) Registrations are issued by the department for a two-year period beginning on July 1st of a given year and ending twenty-four months later on July 1st, except that registrations issued to a registrant who applies to register an additional product during the last twelve months of the registrant's period expire on the next July 1st.

(5) An application for registration must be accompanied by a fee of fifty dollars for each product.

(6) Application for renewal of registration is due July 1st of each registration period. If an application for renewal is not received by the department by the due date, a late fee of ten dollars per product is added to the original fee and must be paid by the applicant before the renewal registration may be issued. A late fee does not apply if the applicant furnishes an affidavit that he or she has not distributed this commercial fertilizer subsequent to the expiration of the prior registration. Payment of a late fee does not prevent the department from taking any action authorized by this chapter for the violation.

Sec. 1003. RCW 15.54.820 and 1998 c 36 s 16 are each amended to read as follows:

(1) After receipt from the department of the completed application required by RCW 15.54.325, the department of ecology shall evaluate whether the use of the proposed waste-derived fertilizer or the micronutrient fertilizer as defined in RCW 15.54.270 is consistent with the following:

(a) Chapter 70.95 RCW (as recodified by this act), the solid waste management act;

(b) Chapter 70.105 RCW (as recodified by this act), the hazardous waste management act; and

(c) 42 U.S.C. Sec. 6901 et seq., the resource conservation and recovery act.

(2) The department of ecology shall apply the standards adopted in RCW 15.54.800. If more stringent standards apply under chapter 173-303 WAC for the same constituents, the department of ecology must use the more stringent standards.

(3) Within sixty days of receiving the completed application, the department of ecology shall advise the department as to whether the application complies with the requirements of subsections (1) and (2) of this section. In making a determination, the department of ecology shall consult with the department of health and the department of labor and industries.

(4) A party aggrieved by a decision of the department of ecology to issue a written approval under this section or to deny the issuance of such an approval may appeal the decision to the pollution control hearings board within thirty days of the decision. Review of such a decision shall be conducted in accordance with chapter 43.21B RCW. Any subsequent appeal of a decision of the hearings board shall be obtained in accordance with RCW 43.21B.180.

Sec. 1004. RCW 19.405.020 and 2019 c 288 s 2 are each amended to read as follows:

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

(1) "Allocation of electricity" means, for the purposes of setting electricity rates, the costs and benefits associated with the resources used to provide electricity to an electric utility's retail electricity consumers that are located in this state.

(2) "Alternative compliance payment" means the payment established in RCW 19.405.090(2).

(3) "Attorney general" means the Washington state office of the attorney general.

(4) "Auditor" means: (a) The Washington state auditor's office or its designee for utilities under its jurisdiction under this chapter that are consumer-owned utilities; or (b) an independent auditor selected by a utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(5)(a) "Biomass energy" includes: (i) Organic by-products of pulping and the wood manufacturing process; (ii) animal manure; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) untreated wooden demolition or construction debris; (vi) food waste and food processing residuals; (vii) liquors derived from algae; (viii) dedicated energy crops; and (ix) yard waste.

(b) "Biomass energy" does not include: (i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth forests; or (iii) municipal solid waste.

(6) "Carbon dioxide equivalent" has the same meaning as defined in RCW 70.235.010 (as recodified by this act).

(7)(a) "Coal-fired resource" means a facility that uses coal-fired generating units, or that uses units fired in whole or in part by coal as feedstock, to generate electricity.

(b)(i) "Coal-fired resource" does not include an electric generating facility that is included as part of a limited duration wholesale power purchase, not to exceed one month, made by an electric utility for delivery to retail electric

customers that are located in this state for which the source of the power is not known at the time of entry into the transaction to procure the electricity.

(ii) "Coal-fired resource" does not include an electric generating facility that is subject to an obligation to meet the standards contained in RCW 80.80.040(3)(c).

(8) "Commission" means the Washington utilities and transportation commission.

(9) "Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

(10) "Consumer-owned utility" means a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual corporation or association formed under chapter 24.06 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(11) "Demand response" means changes in electric usage by demand-side resources from their normal consumption patterns in response to changes in the price of electricity, or to incentive payments designed to induce lower electricity use, at times of high wholesale market prices or when system reliability is jeopardized. "Demand response" may include measures to increase or decrease electricity production on the customer's side of the meter in response to incentive payments.

(12) "Department" means the department of commerce.

(13) "Distributed energy resource" means a nonemitting electric generation or renewable resource or program that reduces electric demand, manages the level or timing of electricity consumption, or provides storage, electric energy, capacity, or ancillary services to an electric utility and that is located on the distribution system, any subsystem of the distribution system, or behind the customer meter, including conservation and energy efficiency.

(14) "Electric utility" or "utility" means a consumer-owned utility or an investor-owned utility.

(15) "Energy assistance" means a program undertaken by a utility to reduce the household energy burden of its customers.

(a) Energy assistance includes, but is not limited to, weatherization, conservation and efficiency services, and monetary assistance, such as a grant program or discounts for lower income households, intended to lower a household's energy burden.

(b) Energy assistance may include direct customer ownership in distributed energy resources or other strategies if such strategies achieve a reduction in energy burden for the customer above other available conservation and demand-side measures.

(16) "Energy assistance need" means the amount of assistance necessary to achieve a level of household energy burden established by the department or commission.

(17) "Energy burden" means the share of annual household income used to pay annual home energy bills.

(18)(a) "Energy transformation project" means a project or program that: Provides energy-related goods or services, other than the generation of

electricity; results in a reduction of fossil fuel consumption and in a reduction of the emission of greenhouse gases attributable to that consumption; and provides benefits to the customers of an electric utility.

(b) "Energy transformation project" may include but is not limited to:

(i) Home weatherization or other energy efficiency measures, including market transformation for energy efficiency products, in excess of: The target established under RCW 19.285.040(1), if applicable; other state obligations; or other obligations in effect on May 7, 2019;

(ii) Support for electrification of the transportation sector including, but not limited to:

(A) Equipment on an electric utility's transmission and distribution system to accommodate electric vehicle connections, as well as smart grid systems that enable electronic interaction between the electric utility and charging systems, and facilitate the utilization of vehicle batteries for system needs;

(B) Incentives for the sale or purchase of electric vehicles, both battery and fuel cell powered, as authorized under state or federal law;

(C) Incentives for the installation of charging equipment for electric vehicles;

(D) Incentives for the electrification of vehicle fleets utilizing a battery or fuel cell for electric supply;

(E) Incentives to install and operate equipment to produce or distribute renewable hydrogen; and

(F) Incentives for renewable hydrogen fueling stations;

(iii) Investment in distributed energy resources and grid modernization to facilitate distributed energy resources and improved grid resilience;

(iv) Investments in equipment for renewable natural gas processing, conditioning, and production, or equipment or infrastructure used solely for the purpose of delivering renewable natural gas for consumption or distribution;

(v) Contributions to self-directed investments in the following measures to serve the sites of large industrial gas and electrical customers: (A) Conservation; (B) new renewable resources; (C) behind-the-meter technology that facilitates demand response cooperation to reduce peak loads; (D) infrastructure to support electrification of transportation needs, including battery and fuel cell electrification; or (E) renewable natural gas processing, conditioning, or production; and

(vi) Projects and programs that achieve energy efficiency and emission reductions in the agricultural sector, including bioenergy and renewable natural gas projects.

(19) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such a material.

(20) "Governing body" means: The council of a city or town; the commissioners of an irrigation district, municipal electric utility, or public utility district; or the board of directors of an electric cooperative or mutual association that has the authority to set and approve rates.

(21) "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or gases designated by the department of ecology by rule under RCW 70.235.010 (as recodified by this act).

(22) "Greenhouse gas content calculation" means a calculation expressed in carbon dioxide equivalent and made by the department of ecology, in consultation with the department, for the purposes of determining the emissions from the complete combustion or oxidation of fossil fuels and the greenhouse gas emissions in electricity for use in calculating the greenhouse gas emissions content in electricity.

(23) "Highly impacted community" means a community designated by the department of health based on cumulative impact analyses in RCW 19.405.140 or a community located in census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

(24) "Investor-owned utility" means a company owned by investors that meets the definition of "corporation" in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(25) "Low-income" means household incomes as defined by the department or commission, provided that the definition may not exceed the higher of eighty percent of area median household income or two hundred percent of the federal poverty level, adjusted for household size.

(26)(a) "Market customer" means a nonresidential retail electric customer of an electric utility that: (i) Purchases electricity from an entity or entities other than the utility with which it is directly interconnected; or (ii) generates electricity to meet one hundred percent of its own needs.

(b) An "affected market customer" is a customer of an investor-owned utility who becomes a market customer after May 7, 2019.

(27)(a) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form, including methane clathrate.

(b) "Natural gas" does not include renewable natural gas or the portion of renewable natural gas when blended into other fuels.

(28)(a) "Nonemitting electric generation" means electricity from a generating facility or a resource that provides electric energy, capacity, or ancillary services to an electric utility and that does not emit greenhouse gases as a by-product of energy generation.

(b) "Nonemitting electric generation" does not include renewable resources.

(29)(a) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity, including but not limited to the facility's fuel type, geographic location, vintage, qualification as a renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(b) "Nonpower attributes" does not include any aspects, claims, characteristics, and benefits associated with the on-site capture and destruction of methane or other greenhouse gases at a facility through a digester system, landfill gas collection system, or other mechanism, which may be separately marketable as greenhouse gas emission reduction credits, offsets, or similar tradable commodities. However, these separate avoided emissions may not result in or otherwise have the effect of attributing greenhouse gas emissions to the electricity.

(30) "Qualified transmission line" means an overhead transmission line that is: (a) Designed to carry a voltage in excess of one hundred thousand volts; (b) owned in whole or in part by an investor-owned utility; and (c) primarily or exclusively used by such an investor-owned utility as of May 7, 2019, to transmit electricity generated by a coal-fired resource.

(31) "Renewable energy credit" means a tradable certificate of proof of one megawatt-hour of a renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity and the certificate is verified by a renewable energy credit tracking system selected by the department.

(32) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for the hydrogen and the source for the energy input into the production process.

(33) "Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

(34) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) renewable natural gas; (f) renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (i) biomass energy.

(35)(a) "Retail electric customer" means a person or entity that purchases electricity from any electric utility for ultimate consumption and not for resale.

(b) "Retail electric customer" does not include, in the case of any electric utility, any person or entity that purchases electricity exclusively from carbon-free and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved by an order of the commission prior to May 7, 2019.

(36) "Retail electric load" means the amount of megawatt-hours of electricity delivered in a given calendar year by an electric utility to its Washington retail electric customers. "Retail electric load" does not include:

(a) Megawatt-hours delivered from qualifying facilities under the federal public utility regulatory policies act of 1978, P.L. 95-617, in operation prior to May 7, 2019, provided that no entity other than the electric utility can make a claim on delivery of the megawatt-hours from those resources; or

(b) Megawatt-hours delivered to an electric utility's system from a renewable resource through a voluntary renewable energy purchase by a retail electric customer of the utility in which the renewable energy credits associated with the megawatt-hours delivered are retired on behalf of the retail electric customer.

(37) "Thermal renewable energy credit" means, with respect to a facility that generates electricity using biomass energy that also generates thermal energy for a secondary purpose, a renewable energy credit that is equivalent to three million four hundred twelve thousand British thermal units of energy used for such secondary purpose.

(38) "Unbundled renewable energy credit" means a renewable energy credit that is sold, delivered, or purchased separately from electricity. All thermal renewable energy credits are considered unbundled renewable energy credits.

(39) "Unspecified electricity" means an electricity source for which the fuel attribute is unknown or has been separated from the energy delivered to retail electric customers.

(40) "Vulnerable populations" means communities that experience a disproportionate cumulative risk from environmental burdens due to:

(a) Adverse socioeconomic factors, including unemployment, high housing and transportation costs relative to income, access to food and health care, and linguistic isolation; and

(b) Sensitivity factors, such as low birth weight and higher rates of hospitalization.

Sec. 1005. RCW 35.21.120 and 1989 c 399 s 1 are each amended to read as follows:

A city or town may by ordinance provide for the establishment of a system or systems of solid waste handling for the entire city or town or for portions thereof. A city or town may provide for solid waste handling by or under the direction of officials and employees of the city or town or may award contracts for any service related to solid waste handling including contracts entered into under RCW 35.21.152. Contracts for solid waste handling may provide that a city or town provide for a minimum periodic fee or other method of compensation in consideration of the operational availability of a solid waste handling system, plant, site, or other facility at a specified minimum level, without regard to the ownership of the system, plant, site, or other facility, or the amount of solid waste actually handled during all or any part of the contract period. When a minimum level of solid waste is specified in a contract for solid waste handling, there shall be a specific allocation of financial responsibility in the event the amount of solid waste handled falls below the minimum level provided in the contract.

As used in this chapter, the terms "solid waste" and "solid waste handling" shall be as defined in RCW 70.95.030 ([as recodified by this act](#)).

Sec. 1006. RCW 35.21.135 and 1991 c 319 s 404 are each amended to read as follows:

(1) Each city or town providing by ordinance or resolution a reduced solid waste collection rate to residents participating in a residential curbside recycling program implemented under RCW 70.95.090 ([as recodified by this act](#)), may provide a similar reduced rate to residents participating in any other recycling program, if such program is approved by the jurisdiction. Nothing in this section shall be interpreted to reduce the authority of a city to adopt ordinances under RCW 35.21.130(1).

(2) For the purposes of this section, "reduced rate" means a residential solid waste collection rate incorporating a rebate, refund, or discount. Reduced rate shall not include residential solid waste collection rate based on the volume or weight of solid waste set out for collection.

Sec. 1007. RCW 35.21.154 and 1989 c 399 s 3 are each amended to read as follows:

Nothing in RCW 35.21.152 will relieve a city or town of its obligations to comply with the requirements of chapter 70.95 RCW ([as recodified by this act](#)).

Sec. 1008. RCW 35.21.156 and 1989 c 399 s 7 are each amended to read as follows:

(1) Notwithstanding the provisions of any city charter, or any law to the contrary, and in addition to any other authority provided by law, the legislative authority of a city or town may contract with one or more vendors for one or more of the design, construction, or operation of, or other service related to, the systems, plants, sites, or other facilities for solid waste handling in accordance with the procedures set forth in this section. Solid waste handling systems, plants, sites, or other facilities constructed, purchased, acquired, leased, added to, altered, extended, maintained, managed, utilized, or operated pursuant to this section, RCW 35.21.120 and 35.21.152, whether publicly or privately owned, shall be in substantial compliance with the solid waste management plan applicable to the city or town adopted pursuant to chapter 70.95 RCW (as recodified by this act). Agreements relating to such solid waste handling systems, plants, sites, or other facilities may be for such term and may contain such covenants, conditions, and remedies as the legislative authority of a city or town may deem necessary or appropriate. When a contract for design services is entered into separately from other services permitted under this section, procurement shall be in accordance with chapter 39.80 RCW.

(2) If the legislative authority of the city or town decides to proceed with the consideration of qualifications or proposals for services from vendors, the city or town shall publish notice of its requirements and request submission of qualifications statements or proposals. The notice shall be published in the official newspaper of the city or town at least once a week for two weeks not less than sixty days before the final date for the submission of qualifications statements or proposals. The notice shall state in summary form (a) the general scope and nature of the design, construction, operation, or other service, (b) the name and address of a representative of the city or town who can provide further details, (c) the final date for the submission of qualifications statements or proposals, (d) an estimated schedule for the consideration of qualifications, the selection of vendors, and the negotiation of a contract or contracts for services, (e) the location at which a copy of any request for qualifications or request for proposals will be made available, and (f) the criteria established by the legislative authority to select a vendor or vendors, which may include but shall not be limited to the vendor's prior experience, including design, construction, or operation of other similar facilities; respondent's management capability, schedule availability and financial resources; cost of the services, nature of facility design proposed by the vendor; 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; project performance guarantees; penalty and other enforcement provisions; environmental protection measures to be used; consistency with the applicable comprehensive solid waste management plan; and allocation of project risks.

(3) If the legislative authority of the city or town decides to proceed with the consideration of qualifications or proposals, it may designate a representative to evaluate the vendors who submitted qualifications statements or proposals and conduct discussions regarding qualifications or proposals with one or more vendors. The legislative authority or representative may request submission of qualifications statements and may later request more detailed proposals from one or more vendors who have submitted qualifications statements, or may request detailed proposals without having first received and evaluated qualifications

statements. The legislative authority or its representative shall evaluate the qualifications or proposals, as applicable. If two or more vendors submit qualifications or proposals that meet the criteria established by the legislative authority of the city or town, discussions and interviews shall be held with at least two vendors. Any revisions to a request for qualifications or request for proposals shall be made available to all vendors then under consideration by the city or town and shall be made available to any other person who has requested receipt of that information.

(4) Based on criteria established by the legislative authority of the city or town, the representative shall recommend to the legislative authority a vendor or vendors that are initially determined to be the best qualified to provide one or more of the design, construction or operation of, or other service related to, the proposed project or services. The legislative authority may select one or more qualified vendors for one or more of the design, construction, or operation of, or other service related to, the proposed project or services.

(5) The legislative authority or its representative may attempt to negotiate a contract with the vendor or vendors selected for one or more of the design, construction, or operation of, or other service related to, the proposed project or services on terms that the legislative authority determines to be fair and reasonable and in the best interest of the city or town. If the legislative authority or its representative is unable to negotiate such a contract with any one or more of the vendors first selected on terms that it determines to be fair and reasonable and in the best interest of the city or town, negotiations with any one or more of the vendors shall be terminated or suspended and another qualified vendor or vendors may be selected in accordance with the procedures set forth in this section. If the legislative authority decides to continue the process of selection, negotiations shall continue with a qualified vendor or vendors in accordance with this section at the sole discretion of the legislative authority until an agreement is reached with one or more qualified vendors, or the process is terminated by the legislative authority. The process may be repeated until an agreement is reached.

(6) Prior to entering into a contract with a vendor, the legislative authority of the city or town shall make written findings, after holding a public hearing on the proposal, that it is in the public interest to enter into the contract, that the contract is financially sound, and that it is advantageous for the city or town to use this method for awarding contracts compared to other methods.

(7) Each contract shall include a project performance bond or bonds or other security by the vendor that in the judgment of the legislative authority of the city or town is sufficient to secure adequate performance by the vendor.

(8) The provisions of chapters 39.12(~~(7)~~) and 39.19(~~(7) and 39.25~~) RCW shall apply to a contract entered into under this section to the same extent as if the systems and plants were owned by a public body.

(9) The vendor selection process permitted by this section shall be supplemental to and shall not be construed as a repeal of or limitation on any other authority granted by law.

The alternative selection process provided by this section may not be used in the selection of a person or entity to construct a publicly owned facility for the storage or transfer of solid waste or solid waste handling equipment unless the facility is either (a) privately operated pursuant to a contract greater than five

years, or (b) an integral part of a solid waste processing facility located on the same site. Instead, the applicable provisions of RCW 35.22.620, and 35.23.352, and chapters 39.04 and 39.30 RCW shall be followed.

Sec. 1009. RCW 35.21.157 and 1994 c 161 s 2 are each amended to read as follows:

(1) A city that contracts for the collection of solid waste, or provides for the collection of solid waste directly, shall notify the public of each proposed rate increase for a solid waste handling service. The notice may be mailed to each affected ratepayer or published once a week for two consecutive weeks in a newspaper of general circulation in the collection area. The notice shall be available to affected ratepayers at least forty-five days prior to the proposed effective date of the rate increase.

(2) For purposes of this section, "solid waste handling" has the same meaning as provided in RCW 70.95.030 (as recodified by this act).

Sec. 1010. RCW 35.21.409 and 2013 c 291 s 16 are each amended to read as follows:

(1) Following the inspection required under RCW 35.21.408 and prior to transferring ownership of a city or town-owned vessel, a city or town shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the city or town.

(2)(a) The city or town shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW 70.105D.020 (as recodified by this act).

(b) However, the city or town may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the city or town's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the city or town, based on factors including the vessel's size, condition, and anticipated use of the vessel, including initial destination following transfer.

(c) The city or town may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the city or town is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550.

Sec. 1011. RCW 35.21.755 and 2007 c 104 s 16 are each amended to read as follows:

(1) A public corporation, commission, or authority created pursuant to RCW 35.21.730, 35.21.660, or 81.112.320 shall receive the same immunity or exemption from taxation as that of the city, town, or county creating the same: PROVIDED, That, except for (a) any property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites or (b) any property owned, operated, or controlled by a public corporation that is used primarily for low-income housing, or that is used as a convention center,

performing arts center, public assembly hall, public meeting place, public esplanade, street, public way, public open space, park, public utility corridor, or view corridor for the general public or (c) any blighted property owned, operated, or controlled by a public corporation that was acquired for the purpose of remediation and redevelopment of the property in accordance with an agreement or plan approved by the city, town, or county in which the property is located, or (d) any property owned, operated, or controlled by a public corporation created under RCW 81.112.320, any such public corporation, commission, or authority shall pay to the county treasurer an annual excise tax equal to the amounts which would be paid upon real property and personal property devoted to the purposes of such public corporation, commission, or authority were it in private ownership, and such real property and personal property is acquired and/or operated under RCW 35.21.730 through 35.21.755, and the proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership: PROVIDED FURTHER, That the provisions of chapter 82.29A RCW shall not apply to property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites and which is controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1987: AND PROVIDED FURTHER, That property within a special review district established by ordinance prior to January 1, 1976, or property which is listed on any federal or state register of historical sites and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1976, shall receive the same immunity or exemption from taxation as if such property had been within a district listed on any such federal or state register of historical sites as of January 1, 1976, and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 which was in existence prior to January 1, 1976.

(2) As used in this section:

(a) "Low-income" means a total annual income, adjusted for family size, not exceeding fifty percent of the area median income.

(b) "Area median income" means:

(i) For an area within a standard metropolitan statistical area, the area median income reported by the United States department of housing and urban development for that standard metropolitan statistical area; or

(ii) For an area not within a standard metropolitan statistical area, the county median income reported by the department of (~~community, trade, and economic development~~) commerce.

(c) "Blighted property" means property that is contaminated with hazardous substances as defined under RCW 70.105D.020 (as recodified by this act).

Sec. 1012. RCW 35.22.625 and 1989 c 399 s 4 are each amended to read as follows:

RCW 35.22.620 does not apply to the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services under RCW 70.150.040 (as recodified by this act) or

the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services under RCW 35.21.156.

Sec. 1013. RCW 35.23.351 and 1989 c 399 s 5 are each amended to read as follows:

RCW 35.23.352 does not apply to the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services under RCW 70.150.040 (as recodified by this act) or the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services under RCW 35.21.156.

Sec. 1014. RCW 35.92.020 and 2003 c 394 s 2 are each amended to read as follows:

(1) A city or town may construct, condemn and purchase, purchase, acquire, add to, alter, maintain, and operate systems, plants, sites, or other facilities of sewerage as defined in RCW 35.67.010, or solid waste handling as defined by RCW 70.95.030 (as recodified by this act). A city or town shall have full authority to manage, regulate, operate, control, and, except as provided in subsection (3) of this section, to fix the price of service and facilities of those systems, plants, sites, or other facilities within and without the limits of the city or town.

(2) Subject to subsection (3) of this section, the rates charged shall be uniform for the same class of customers or service and facilities. In classifying customers served or service and facilities furnished by a system or systems of sewerage, the legislative authority of the city or town may in its discretion consider any or all of the following factors:

- (a) The difference in cost of service and facilities to customers;
- (b) The location of customers within and without the city or town;
- (c) The difference in cost of maintenance, operation, repair, and replacement of the parts of the system;
- (d) The different character of the service and facilities furnished to customers;
- (e) The quantity and quality of the sewage delivered and the time of its delivery;
- (f) Capital contributions made to the systems, plants, sites, or other facilities, including but not limited to, assessments;
- (g) The nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and
- (h) Any other factors that present a reasonable difference as a ground for distinction.

(3) The rate a city or town 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) Rates or charges for on-site inspection and maintenance services may not be imposed under this chapter on the development, construction, or reconstruction of property.

(5) A city or town may provide assistance to aid low-income persons in connection with services provided under this chapter.

(6) Under this chapter, after July 1, 1998, any requirements for pumping the septic tank of an on-site sewage system should be based, among other things, on actual measurement of accumulation of sludge and scum by a trained inspector, trained owner's agent, or trained owner. Training must occur in a program approved by the state board of health or by a local health officer.

(7) Before adopting on-site inspection and maintenance utility services, or incorporating residences into an on-site inspection and maintenance or sewer utility under this chapter, notification must be provided, prior to the applicable public hearing, to all residences within the proposed service area that have on-site systems permitted by the local health officer. The notice must clearly state that the residence is within the proposed service area and must provide information on estimated rates or charges that may be imposed for the service.

(8) A city or town shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using city or town employees unless the on-site system is connected by a publicly owned collection system to the city or town's sewerage system, and the on-site system represents the first step in the sewage disposal process. Nothing in this section shall affect the authority of state or local health officers to carry out their responsibilities under any other applicable law.

Sec. 1015. RCW 35.94.050 and 1986 c 244 s 11 are each amended to read as follows:

This chapter does not apply to dispositions of utility property in connection with an agreement entered into pursuant to chapter 70.150 RCW (as recodified by this act) provided there is compliance with the procurement procedure under RCW 70.150.040 (as recodified by this act).

Sec. 1016. RCW 35A.21.152 and 1994 c 161 s 3 are each amended to read as follows:

(1) A city that contracts for the collection of solid waste, or provides for the collection of solid waste directly, shall notify the public of each proposed rate increase for a solid waste handling service. The notice may be mailed to each affected ratepayer or published once a week for two consecutive weeks in a newspaper of general circulation in the collection area. The notice shall be available to affected ratepayers at least forty-five days prior to the proposed effective date of the rate increase.

(2) For purposes of this section, "solid waste handling" has the same meaning as provided in RCW 70.95.030 (as recodified by this act).

Sec. 1017. RCW 35A.21.153 and 1991 c 319 s 405 are each amended to read as follows:

(1) Each city or town providing by ordinance or resolution a reduced solid waste collection rate to residents participating in a residential curbside recycling program implemented under RCW 70.95.090 (as recodified by this act), may provide a similar reduced rate to residents participating in any other recycling program, if such program is approved by the jurisdiction. Nothing in this section

shall be interpreted to reduce the authority of a city to adopt ordinances under RCW 35.21.130(1).

(2) For the purposes of this section, "reduced rate" means a residential solid waste collection rate incorporating a rebate, refund, or discount. Reduced rate shall not include residential solid waste collection rate based on the volume or weight of solid waste set out for collection.

Sec. 1018. RCW 35A.21.324 and 2013 c 291 s 18 are each amended to read as follows:

(1) Following the inspection required under RCW 35A.21.322 and prior to transferring ownership of a code city-owned vessel, a code city shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the code city.

(2)(a) The code city shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW 70.105D.020 (as recodified by this act).

(b) However, the code city may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the code city's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the code city, based on factors including the vessel's size, condition, and anticipated use of the vessel, including initial destination following transfer.

(c) The code city may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the code city is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550.

Sec. 1019. RCW 36.32.120 and 2003 c 337 s 6 are each amended to read as follows:

The legislative authorities of the several counties shall:

(1) Provide for the erection and repairing of courthouses, jails, and other necessary public buildings for the use of the county;

(2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;

(3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted at fees set by the legislative authorities which shall not exceed the costs of administration and operation of such licensed activities;

(4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law;

(5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management,

collection, or disbursement of any money belonging to the county or appropriated to its benefit;

(6) Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;

(7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: PROVIDED, That except for Washington state statutes, there shall be filed in the county auditor's office one copy of such codes and compilations ten days prior to their adoption by reference, and additional copies may also be filed in library or city offices within the county as deemed necessary by the county legislative authority: PROVIDED FURTHER, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor or a civil violation subject to a monetary penalty: PROVIDED FURTHER, That violation of a regulation, ordinance, code, compilation, and/or statute relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a regulation, ordinance, code, compilation, and/or statute equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. However, the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime and no act that is a state crime may be made a civil violation. The notice must set out a copy of the proposed regulations or summarize the content of each proposed regulation; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. For purposes of this subsection, a summary shall mean a brief description which succinctly describes the main points of the proposed regulation. When the county publishes a summary, the publication shall include a statement that the full text of the proposed regulation will be mailed upon request. An inadvertent mistake or omission in publishing the text or a summary of the content of a proposed regulation shall not render the regulation invalid if it is adopted. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as district judges;

(10) Have power to declare by ordinance what shall be deemed a nuisance within the county, including but not limited to "litter" and "potentially dangerous litter" as defined in RCW 70.93.030 (as recodified by this act); to prevent, remove, and abate a nuisance at the expense of the parties creating, causing, or committing the nuisance; and to levy a special assessment on the land or premises on which the nuisance is situated to defray the cost, or to reimburse the county for the cost of abating it. This assessment shall constitute a lien against the property which shall be of equal rank with state, county, and municipal taxes.

Sec. 1020. RCW 36.32.304 and 2013 c 291 s 20 are each amended to read as follows:

(1) Following the inspection required under RCW 36.32.302 and prior to transferring ownership of a county-owned vessel, a county shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the county.

(2)(a) The county shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW 70.105D.020 (as recodified by this act).

(b) However, the county may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the county's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the county, based on factors including the vessel's size, condition, and anticipated use of the vessel including initial destination following transfer.

(c) The county may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the county is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550.

Sec. 1021. RCW 36.34.192 and 1986 c 244 s 12 are each amended to read as follows:

RCW 36.34.150 through 36.34.190 shall not apply to agreements entered into pursuant to chapter 70.150 RCW (as recodified by this act) provided there is compliance with the procurement procedure under RCW 70.150.040 (as recodified by this act).

Sec. 1022. RCW 36.58.040 and 1992 c 131 s 3 are each amended to read as follows:

(1) The legislative authority of a county may by ordinance provide for the establishment of a system or systems of solid waste handling for all unincorporated areas of the county or for portions thereof. A county may designate a disposal site or sites for all solid waste collected in the unincorporated areas pursuant to the provisions of a comprehensive solid waste plan adopted pursuant to chapter 70.95 RCW (as recodified by this act). However for any solid waste collected by a private hauler operating under a certificate granted by the Washington utilities and transportation commission under the provisions of chapter 81.77 RCW and which certificate is for

collection in a geographic area lying in more than one county, such designation of disposal sites shall be pursuant to an interlocal agreement between the involved counties.

(2) A county may construct, lease, purchase, acquire, add to, alter, or extend solid waste handling systems, plants, sites, or other facilities and shall have full jurisdiction and authority to manage, regulate, maintain, utilize, operate, control, and establish the rates and charges for those solid waste handling systems, plants, sites, or other facilities. A county may enter into agreements with public or private parties to: ~~((1))~~ (a) Construct, purchase, acquire, lease, add to, alter, extend, maintain, manage, utilize, or operate publicly or privately owned or operated solid waste handling systems, plants, sites, or other facilities; ~~((2))~~ (b) establish rates and charges for those systems, plants, sites, or other facilities; ~~((3))~~ (c) designate particular publicly or privately owned or operated systems, plants, sites, or other facilities as disposal sites; ~~((4))~~ (d) process, treat, or convert solid waste into other valuable or useful materials or products; and ~~((5))~~ (e) sell the material or products of those systems, plants, or other facilities.

(3) The legislative authority of a county may award contracts for solid waste handling that provide that a county provide for a minimum periodic fee or other method of compensation in consideration of the operational availability of those solid waste handling systems, plants, sites, or other facilities at a specified minimum level, without regard to the ownership of the systems, plants, sites or other facilities, or the amount of solid waste actually handled during all or any part of the contract. When a minimum level of solid waste is specified in a contract entered into under this section, there shall be a specific allocation of financial responsibility in the event the amount of solid waste handled falls below the minimum level provided in the contract. Solid waste handling systems, plants, sites, or other facilities constructed, purchased, acquired, leased, added to, altered, extended, maintained, managed, utilized, or operated pursuant to this section, whether publicly or privately owned, shall be in substantial compliance with the solid waste management plan applicable to the county adopted pursuant to chapter 70.95 RCW (as recodified by this act). Agreements relating to such solid waste handling systems, ~~((plans [plants]))~~ plants, sites, or other facilities may be for such term and may contain such covenants, conditions, and remedies as the legislative authority of the county may deem necessary or appropriate.

(4) As used in this chapter, the terms "solid waste" and "solid waste handling" shall be as defined in RCW 70.95.030 (as recodified by this act).

(5) The legislative authority of a county may:

~~((1))~~ (a) By ordinance award a contract to collect source separated recyclable materials from residences within unincorporated areas. The legislative authority has complete authority to manage, regulate, and fix the price of the source separated recyclable collection service. The contracts may provide that the county pay minimum periodic fees to a municipal entity or permit holder; or

~~((2))~~ (b) Notify the commission in writing to carry out and implement the provisions of the waste reduction and recycling element of the comprehensive solid waste management plan.

(6) This election may be made by counties at any time after July 23, 1989. An initial election must be made no later than ninety days following approval of the local comprehensive waste management plan required by RCW 70.95.090 (as recodified by this act).

(7) Nothing in this section shall be construed to authorize the operation of a solid waste collection system by counties or to authorize counties to affect the authority of the utilities and transportation commission under RCW 81.77.020.

Sec. 1023. RCW 36.58.045 and 1989 c 431 s 15 are each amended to read as follows:

(1) The legislative authority of any county may impose a fee upon the solid waste collection services of a solid waste collection company operating within the unincorporated areas of the county, to fund the administration and planning expenses that may be incurred by the county in complying with the requirements in RCW 70.95.090 (as recodified by this act). The fee may be in addition to any other solid waste services fees and charges a county may legally impose.

(2) Each county imposing the fee authorized by this section shall notify the Washington utilities and transportation commission and the affected solid waste collection companies of the amount of the fee ninety days prior to its implementation.

Sec. 1024. RCW 36.58.050 and 1975-'76 2nd ex.s. c 58 s 3 are each amended to read as follows:

When a comprehensive solid waste plan, as provided in RCW 70.95.080 (as recodified by this act), incorporates the use of transfer stations, such stations shall be considered part of the disposal site and as such, along with the transportation of solid wastes between disposal sites, shall be exempt from regulation by the Washington utilities and transportation commission as provided in chapter 81.77 RCW.

Each county may enter into contracts for the hauling of trailers of solid wastes from these transfer stations to disposal sites and return either by (1) the normal bidding process, or (2) negotiation with the qualified collection company servicing the area under authority of chapter 81.77 RCW.

Sec. 1025. RCW 36.58A.010 and 1971 ex.s. c 293 s 2 are each amended to read as follows:

Any county legislative authority may establish solid waste collection districts within the county boundaries for the mandatory collection of solid waste: PROVIDED, That no such district shall include any area within the corporate limits of any city or town without the consent of the legislative authority of the city or town. Such districts may be established only after approval of a coordinated, comprehensive solid waste management plan adopted pursuant to chapter 134, Laws of 1969 ex. sess. and chapter 70.95 RCW (as recodified by this act) or pursuant to another solid waste management plan adopted prior to May 21, 1971 or within one year thereafter. The legislative authority of the county may modify or dissolve such district after a hearing as provided for in RCW 36.58A.020.

Sec. 1026. RCW 36.70A.130 and 2012 c 191 s 1 are each amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted

them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

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

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

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year, except that, until December 31, 2015, the program shall provide for consideration of amendments of an urban growth area in accordance with RCW 36.70A.1301 once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

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

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

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW ((~~43.21C.031(2)~~) 43.21C.440), provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

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

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, according to the schedules established in subsection (5) of this section, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

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

(4) Except as provided in subsection (6) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

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

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

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

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

(5) Except as otherwise provided in subsections (6) and (8) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before June 30, 2015, and every eight years thereafter, for King, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2016, and every eight years thereafter, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2017, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2018, and every eight years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

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

(b) A county that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(d) A county or city that is subject to a deadline established in subsection (4)(d) of this section and that meets the criteria established in (b) or (c) of this subsection may comply with the requirements of subsection (4)(d) of this section at any time within the thirty-six months after the extension provided in (b) or (c) of this subsection.

(e) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(f) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The city has a population of no more than five thousand and has had its population increase by

the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

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

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW (as recodified by this act):

(i) Complying with the deadlines in this section;

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas; or

(iii) Complying with the extension provisions of subsection (6)(b), (c), or (d) of this section.

(b) A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under RCW 36.70A.710(1) may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed if:

(i) A work plan has been approved for that watershed in accordance with RCW 36.70A.725;

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under RCW 36.70A.720;

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning ten years from the date of receipt of funding, a county that has made the election under RCW 36.70A.710(1) must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section. This subsection (8)(c) does not apply to a participating watershed that has determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals and benchmarks for protection have been met.

Sec. 1027. RCW 36.70A.200 and 2013 c 275 s 5 are each amended to read as follows:

(1) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

(2) Each county and city planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community transition facilities consistent with statutory requirements applicable to these facilities.

(3) Any city or county not planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process for siting secure community transition facilities and adopt or amend its development regulations as necessary to provide for the siting of such facilities consistent with statutory requirements applicable to these facilities.

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list.

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in RCW 42.17A.005, corporation, partnership, association, and limited liability entity.

(7) Counties or cities siting facilities pursuant to subsection (2) or (3) of this section shall comply with RCW 71.09.341.

(8) The failure of a county or city to act by the deadlines established in subsections (2) and (3) of this section is not:

(a) A condition that would disqualify the county or city for grants, loans, or pledges under RCW 43.155.070 or 70.146.070 (as recodified by this act);

(b) A consideration for grants or loans provided under RCW 43.17.250(3);
or

(c) A basis for any petition under RCW 36.70A.280 or for any private cause of action.

Sec. 1028. RCW 36.93.090 and 1996 c 230 s 1608 are each amended to read as follows:

Whenever any of the following described actions are proposed in a county in which a board has been established, the initiators of the action shall file within

one hundred eighty days a notice of intention with the board: PROVIDED, That when the initiator is the legislative body of a governmental unit, the notice of intention may be filed immediately following the body's first acceptance or approval of the action. The board may review any such proposed actions pertaining to:

(1) The: (a) Creation, incorporation, or change in the boundary, other than a consolidation, of any city, town, or special purpose district; (b) consolidation of special purpose districts, but not including consolidation of cities and towns; or (c) dissolution or disincorporation of any city, town, or special purpose district, except that a board may not review the dissolution or disincorporation of a special purpose district which was dissolved or disincorporated pursuant to the provisions of chapter 36.96 RCW: PROVIDED, That the change in the boundary of a city or town arising from the annexation of contiguous city or town owned property held for a public purpose shall be exempted from the requirements of this section; or

(2) The assumption by any city or town of all or part of the assets, facilities, or indebtedness of a special purpose district which lies partially within such city or town; or

(3) The establishment of or change in the boundaries of a mutual water and sewer system or separate sewer system by a water-sewer district pursuant to RCW 57.08.065 (~~or chapter 57.40 RCW~~); or

(4) The extension of permanent water or sewer service outside of its existing service area by a city, town, or special purpose district. The service area of a city, town, or special purpose district shall include all of the area within its corporate boundaries plus, (a) for extensions of water service, the area outside of the corporate boundaries which it is designated to serve pursuant to a coordinated water system plan approved in accordance with RCW 70.116.050 (as recodified by this act); and (b) for extensions of sewer service, the area outside of the corporate boundaries which it is designated to serve pursuant to a comprehensive sewerage plan approved in accordance with chapter 36.94 RCW and RCW 90.48.110.

Sec. 1029. RCW 36.94.010 and 2007 c 343 s 14 are each amended to read as follows:

As used in this chapter:

(1) A "system of sewerage" means and may include any or all of the following:

(a) Sanitary sewage collection, treatment, and/or disposal facilities and services, including without limitation on-site or off-site sanitary sewerage facilities, large on-site sewage systems defined under RCW 70.118B.010 (as recodified by this act), inspection services and maintenance services for private or public on-site systems, or any other means of sewage treatment and disposal approved by the county;

(b) Combined sanitary sewage disposal and storm or surface water drains and facilities;

(c) Storm or surface water drains, channels, and facilities;

(d) Outfalls for storm drainage or sanitary sewage and works, plants, and facilities for storm drainage or sanitary sewage treatment and disposal, and rights and interests in property relating to the system;

(e) Combined water and sewerage systems;

(f) Point and nonpoint water pollution monitoring programs that are directly related to the sewerage facilities and programs operated by a county;

(g) Public restroom and sanitary facilities;

(h) The facilities and services authorized in RCW 36.94.020; and

(i) Any combination of or part of any or all of such facilities.

(2) A "system of water" means and includes:

(a) A water distribution system, including dams, reservoirs, aqueducts, plants, pumping stations, transmission and lateral distribution lines and other facilities for distribution of water;

(b) A combined water and sewerage system;

(c) Any combination of or any part of any or all of such facilities.

(3) A "sewerage and/or water general plan" means a general plan for a system of sewerage and/or water for the county which shall be an element of the comprehensive plan established by the county pursuant to RCW 36.70.350(6) and/or chapter 35.63 RCW, if there is such a comprehensive plan.

(a) A sewerage general plan shall include the general location and description of treatment and disposal facilities, trunk and interceptor sewers, pumping stations, monitoring and control facilities, channels, local service areas and a general description of the collection system to serve those areas, a description of on-site sanitary sewerage system inspection services and maintenance services, and other facilities and services as may be required to provide a functional and implementable plan, including preliminary engineering to assure feasibility. The plan may also include a description of the regulations deemed appropriate to carrying out surface drainage plans.

(b) A water general plan shall include the general location and description of water resources to be utilized, wells, treatment facilities, transmission lines, storage reservoirs, pumping stations, and monitoring and control facilities as may be required to provide a functional and implementable plan.

(c) Water and/or sewerage general plans shall include preliminary engineering in adequate detail to assure technical feasibility and, to the extent then known, shall further discuss the methods of distributing the cost and expense of the system and shall indicate the economic feasibility of plan implementation. The plans may also specify local or lateral facilities and services. The sewerage and/or water general plan does not mean the final engineering construction or financing plans for the system.

(4) "Municipal corporation" means and includes any city, town, metropolitan municipal corporation, any public utility district which operates and maintains a sewer or water system, any sewer, water, diking, or drainage district, any diking, drainage, and sewerage improvement district, and any irrigation district.

(5) A "private utility" means and includes all utilities, both public and private, which provide sewerage and/or water service and which are not municipal corporations within the definition of this chapter. The ownership of a private utility may be in a corporation, nonprofit or for profit, in a cooperative association, in a mutual organization, or in individuals.

(6) "Board" means one or more boards of county commissioners and/or the legislative authority of a home rule charter county.

Sec. 1030. RCW 43.21A.020 and 1970 ex.s. c 62 s 2 are each amended to read as follows:

In recognition of the responsibility of state government to carry out the policies set forth in RCW 43.21A.010, it is the purpose of this chapter to establish a single state agency with the authority to manage and develop our air and water resources in an orderly, efficient, and effective manner and to carry out a coordinated program of pollution control involving these and related land resources. To this end a department of ecology is created by this chapter to undertake, in an integrated manner, the various water regulation, management, planning and development programs now authorized to be performed by the department of water resources and the water pollution control commission, the air regulation and management program now performed by the state air pollution control board, the solid waste regulation and management program authorized to be performed by state government as provided by chapter 70.95 RCW (as recodified by this act), and such other environmental, management protection and development programs as may be authorized by the legislature.

Sec. 1031. RCW 43.21A.175 and 1997 c 419 s 2 are each amended to read as follows:

(1) At the request of a project proponent, the department shall consider information developed through a certification program when making permit or other regulatory decisions. The department may not require duplicative demonstration of such information, but may require additional information as necessary to assure that state requirements are met. A local government that has a regulatory authority delegated by the department may use information developed through a certification program when making permit or other regulatory decisions.

(2) The department shall develop a certification program for technologies for remediation of radioactive and mixed waste, as those terms are defined in chapter 70.105 RCW (as recodified by this act), if all program development and operational costs are paid by the federal government or persons seeking certification of the technologies.

(3) Following the development of the certification program in subsection (2) of this section, the department may use the policies and procedures of that program on a pilot basis to evaluate the use of certification for site remediation technologies and other environmental technologies, if the operational costs of the certification are paid by the federal government or persons seeking certification of such technologies.

(4) The department shall charge a reasonable fee to recover the operational costs of certifying a technology.

(5) Subsections (1), (3), and (4) of this section apply to permit and other regulatory decisions made under the following: Chapters 70.94 (as recodified by this act), 70.95 (as recodified by this act), 70.105 (as recodified by this act), 70.105D (as recodified by this act), 70.120 (as recodified by this act), 70.138 (as recodified by this act), 90.48, 90.54, and 90.56 RCW.

(6) For the purposes of this section, "certification program" means a program, developed or approved by the department, to certify the quantitative performance of an environmental technology over a specified range of parameters and conditions. Certification of a technology does not imply endorsement of a specific technology by the department, or a guarantee of the performance of a technology.

(7) The department may adopt rules as necessary to implement the requirements of subsections (2) and (3) of this section, and establish requirements and procedures for evaluation and certification of environmental technologies.

(8) The state, the department, and officers and employees of the state shall not be liable for damages resulting from the utilization of information developed through a certification program, or from a decision to certify or deny certification to an environmental technology. Actions of the department under this section are not decisions reviewable under RCW 43.21B.110.

Sec. 1032. RCW 43.21A.702 and 2013 c 291 s 24 are each amended to read as follows:

(1) Following the inspection required under RCW 43.21A.700 and prior to transferring ownership of a department-owned vessel, the department shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the department.

(2)(a) The department shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW 70.105D.020 (as recodified by this act).

(b) However, the department may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the department's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the department, based on factors including the vessel's size, condition, and anticipated use of the vessel including initial destination following transfer.

(3) Prior to sale, and unless the vessel has a valid marine document, the department is required to apply for a title or certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550.

Sec. 1033. RCW 43.21A.711 and 2014 c 173 s 3 are each amended to read as follows:

(1) Cities and counties may submit a petition to the department for reimbursement of extraordinary costs associated with managing unforeseen consequences of used oil contaminated with polychlorinated biphenyl and compliance with United States environmental protection agency enforcement orders and enforcement-related agreements.

(2) The department, in consultation with city and county moderate risk waste coordinators, the United States environmental protection agency, and other stakeholders, must process and prioritize city and county petitions that meet the following conditions:

(a) The petitioning city or county has followed and met:

(i) The updated best management practices guidelines for the collection and management of used oil; and

(ii) The best management practices for preventing and managing polychlorinated biphenyl contamination, as required under RCW 70.95I.030 (as recodified by this act); and

(b) The department has determined that:

(i) The costs to the petitioning city or county for disposal of the contaminated oil or for compliance with United States environmental protection agency enforcement orders or enforcement-related agreements are extraordinary; and

(ii) The city or county could not reasonably accommodate or anticipate the extraordinary costs in their normal budget processes by following and meeting the best management practices for oil contaminated with polychlorinated biphenyl.

(3) Before January 1st of each year, the department must develop and submit to the appropriate fiscal committees of the senate and house of representatives a prioritized list of submitted petitions that the department recommends for funding by the legislature. It is the intent of the legislature that if funded, the reimbursement of extraordinary city or county costs associated with polychlorinated biphenyl management and compliance activities come from the model toxics control (~~(accounts)~~) operating account created in RCW 70.105D.190 (as recodified by this act).

Sec. 1034. RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10, and 2019 c 290 s 12 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW (as recodified by this act), local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431 (as recodified by this act), 70.105.080 (as recodified by this act), 70.107.050 (as recodified by this act), 70.365.070 (as recodified by this act), 70.375.060 (as recodified by this act), 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211 (as recodified by this act), 70.94.332 (as recodified by this act), 70.105.095 (as recodified by this act), 70.365.070 (as recodified by this act), 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) A final decision by the department or director made under chapter 183, Laws of 2009.

(d) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300 (as recodified by this act).

(e) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW (as recodified by this act).

(f) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080 (as recodified by this act).

(g) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205 (as recodified by this act).

(h) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(i) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(j) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(k) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(l) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(m) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(n) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332 (as recodified by this act), 70.94.390 (as recodified by this act), 70.94.395 (as recodified by this act), 70.94.400 (as recodified by this act), 70.94.405 (as recodified by this act), 70.94.410 (as recodified by this act), and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

Sec. 1035. RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10, and 2019 c 290 s 12 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW (as recodified by this act), local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431 (as recodified by this act), 70.105.080 (as recodified by this act), 70.107.050 (as recodified by this act), 70.365.070 (as recodified by this act), 70.375.060 (as recodified by this act), 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211 (as recodified by this act), 70.94.332 (as recodified by this act), 70.105.095 (as recodified by this act), 70.365.070 (as recodified by this act), 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300 (as recodified by this act).

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW (as recodified by this act).

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080 (as recodified by this act).

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205 (as recodified by this act).

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332 (as recodified by this act), 70.94.390 (as recodified by this act), 70.94.395 (as recodified by this act), 70.94.400 (as recodified by this act), 70.94.405 (as recodified by this act), 70.94.410 (as recodified by this act), and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

Sec. 1036. RCW 43.21B.130 and 1990 c 65 s 3 are each amended to read as follows:

The administrative procedure act, chapter 34.05 RCW, shall apply to the appeal of rules and regulations adopted by the board to the same extent as it applied to the review of rules and regulations adopted by the directors and/or boards or commissions of the various departments whose powers, duties and functions were transferred by section 6, chapter 62, Laws of 1970 ex. sess. to the department. All other decisions and orders of the director and all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW (as recodified by this act) shall be subject to review by the hearings board as provided in this chapter.

Sec. 1037. RCW 43.21B.260 and 1974 ex.s. c 69 s 5 are each amended to read as follows:

Activated air pollution control authorities, established under chapter 70.94 RCW (as recodified by this act), may file certified copies of their regulations and amendments thereto with the pollution control hearings board of the state of Washington, and the hearings board shall take judicial note of the copies so filed and the said regulations and amendments shall be received and admitted, by reference, in all hearings before the board, as prima facie evidence that such regulations and amendments on file are in full force and effect.

Sec. 1038. RCW 43.21B.300 and 2019 c 64 s 19 are each amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70.94.431 (as recodified by this act), 70.95.315 (as recodified by this act), 70.105.080 (as recodified by this act), 70.107.050 (as recodified by this act), 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 90.76 RCW (as recodified by this act) shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within thirty days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may

deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority thirty days after the date of receipt by the person penalized of the notice imposing the penalty or thirty days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

- (a) Thirty days after receipt of the notice imposing the penalty;
- (b) Thirty days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or
- (c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within thirty days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431 (as recodified by this act), the disposition of which shall be governed by that provision, RCW 70.105.080 (as recodified by this act), which shall be credited to the ~~((hazardous waste control and elimination account created by RCW 70.105.180))~~ model toxics control operating account created in RCW 70.105D.190 (as recodified by this act), RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 90.76.080 (as recodified by this act), which shall be credited to the underground storage tank account created by RCW 90.76.100 (as recodified by this act).

Sec. 1039. RCW 43.21C.036 and 1994 c 257 s 21 are each amended to read as follows:

In conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW (as recodified by this act), or if conducted by the department of ecology, the department of ecology to the maximum extent practicable shall integrate the procedural requirements and documents of this chapter with the procedures and documents under chapter 70.105D RCW (as recodified by this act). Such integration shall at a minimum include the public participation procedures of chapter 70.105D RCW (as recodified by this act) and the public notice and review requirements of this chapter.

Sec. 1040. RCW 43.21C.0381 and 1995 c 172 s 1 are each amended to read as follows:

Decisions pertaining to the issuance, renewal, reopening, or revision of an air operating permit under RCW 70.94.161 (as recodified by this act) are not subject to the requirements of RCW 43.21C.030(2)(c).

Sec. 1041. RCW 43.21C.210 and 1981 c 278 s 4 are each amended to read as follows:

This chapter does not apply to actions authorized by RCW 43.37.215 and 43.37.220 (as recodified by this act) which are undertaken during a state of emergency declared by the governor under RCW 43.06.210.

Sec. 1042. RCW 43.21F.090 and 2019 c 288 s 22 are each amended to read as follows:

(1) The department shall review the state energy strategy by December 31, 2020, and at least once every eight years thereafter, subject to funding provided for this purpose, for the purpose of aligning the state energy strategy with the requirements of RCW 43.21F.088 and chapters 19.285 and 19.405 RCW, and the emission reduction targets recommended by the department of ecology under RCW 70.235.040 (as recodified by this act). The department must establish an energy strategy advisory committee for each review to provide guidance to the department in conducting the review. The membership of the energy strategy advisory committee must consist of the following:

- (a) One person recommended by investor-owned electric utilities;
- (b) One person recommended by investor-owned natural gas utilities;
- (c) One person employed by or recommended by a natural gas pipeline serving the state;
- (d) One person recommended by suppliers of petroleum products;
- (e) One person recommended by municipally owned electric utilities;
- (f) One person recommended by public utility districts;
- (g) One person recommended by rural electrical cooperatives;
- (h) One person recommended by industrial energy users;
- (i) One person recommended by commercial energy users;
- (j) One person recommended by agricultural energy users;
- (k) One person recommended by the association of Washington cities;
- (l) One person recommended by the Washington association of counties;
- (m) One person recommended by Washington Indian tribes;
- (n) One person recommended by businesses in the clean energy industry;
- (o) One person recommended by labor unions;
- (p) Two persons recommended by civic organizations, one of which must be a representative of a civic organization that represents vulnerable populations;
- (q) Two persons recommended by environmental organizations;
- (r) One person representing independent power producers;
- (s) The chair of the energy facility site evaluation council or the chair's designee;
- (t) One of the representatives of the state of Washington to the Pacific Northwest electric power and conservation planning council selected by the governor;
- (u) The chair of the utilities and transportation commission or the chair's designee;

(v) One member from each of the two largest caucuses of the house of representatives selected by the speaker of the house of representatives; and

(w) One member from each of the two largest caucuses of the senate selected by the president of the senate.

(2) The chair of the advisory committee must be appointed by the governor from citizen members. The director may establish technical advisory groups as necessary to assist in the development of the strategy. The director shall provide for extensive public involvement throughout the development of the strategy.

(3) Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. The energy strategy advisory committee established under this section must be dissolved within three months after their written report is conveyed.

Sec. 1043. RCW 43.27A.190 and 2009 c 549 s 5111 are each amended to read as follows:

Notwithstanding and in addition to any other powers granted to the department of ecology, whenever it appears to the department that a person is violating or is about to violate any of the provisions of the following:

(1) Chapter 90.03 RCW; or

(2) Chapter 90.44 RCW; or

(3) Chapter 86.16 RCW; or

(4) Chapter 43.37 RCW (as recodified by this act); or

(5) Chapter 43.27A RCW; or

(6) Any other law relating to water resources administered by the department; or

(7) A rule or regulation adopted, or a directive or order issued by the department relating to subsections (1) through (6) of this section; the department may cause a written regulatory order to be served upon said person either personally, or by registered or certified mail delivered to addressee only with return receipt requested and acknowledged by him or her. The order shall specify the provision of the statute, rule, regulation, directive or order alleged to be or about to be violated, and the facts upon which the conclusion of violating or potential violation is based, and shall order the act constituting the violation or the potential violation to cease and desist or, in appropriate cases, shall order necessary corrective action to be taken with regard to such acts within a specific and reasonable time. The regulation of a headgate or controlling works as provided in RCW 90.03.070, by a watermaster, stream patrol officer, or other person so authorized by the department shall constitute a regulatory order within the meaning of this section. A regulatory order issued hereunder shall become effective immediately upon receipt by the person to whom the order is directed, except for regulations under RCW 90.03.070 which shall become effective when a written notice is attached as provided therein. Any person aggrieved by such order may appeal the order pursuant to RCW 43.21B.310.

Sec. 1044. RCW 43.37.050 and 2009 c 549 s 5113 are each amended to read as follows:

In the case of hearings pursuant to RCW 43.37.180 (as recodified by this act) the department shall, and in other cases may, cause a record of the

proceedings to be taken and filed with the department, together with its findings and conclusions. For any hearing, the director of the department or a representative designated by him or her is authorized to administer oaths and affirmations, examine witnesses, and issue, in the name of the department, notice of the hearing or subpoenas requiring any person to appear and testify, or to appear and produce documents, or both, at any designated place.

Sec. 1045. RCW 43.37.080 and 1973 c 64 s 6 are each amended to read as follows:

Except as provided in RCW 43.37.090 (as recodified by this act), no person shall engage in activities for weather modification and control except under and in accordance with a license and a permit issued by the department authorizing such activities.

Sec. 1046. RCW 43.37.110 and 1973 c 64 s 9 are each amended to read as follows:

The department shall issue permits in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this chapter only:

- (1) If the applicant is licensed pursuant to this chapter;
- (2) If a sufficient notice of intention is published and proof of publication is filed as required by RCW 43.37.140 (as recodified by this act);
- (3) If the applicant furnishes proof of financial responsibility, as provided in RCW 43.37.150 (as recodified by this act), in an amount to be determined by the department but not to exceed twenty thousand dollars;
- (4) If the fee for a permit is paid as required by RCW 43.37.160 (as recodified by this act);
- (5) If the weather modification and control activities to be conducted under authority of the permit are determined by the department to be for the general welfare and public good;
- (6) If the department has held an open public hearing in Olympia as to such issuance.

Sec. 1047. RCW 43.37.140 and 1973 c 64 s 11 are each amended to read as follows:

(1) The applicant shall cause the notice of intention, or that portion thereof including the items specified in RCW 43.37.130 (as recodified by this act), to be published at least once a week for three consecutive weeks in a legal newspaper having a general circulation and published within any county in which the operation is to be conducted and in which the affected area is located, or, if the operation is to be conducted in more than one county or if the affected area is located in more than one county or is located in a county other than the one in which the operation is to be conducted, then in a legal newspaper having a general circulation and published within each of such counties. In case there is no legal newspaper published within the appropriate county, publication shall be made in a legal newspaper having a general circulation within the county;

(2) Proof of publication, made in the manner provided by law, shall be filed by the licensee with the department within fifteen days from the date of the last publication of the notice.

Sec. 1048. RCW 43.37.170 and 2009 c 549 s 5117 are each amended to read as follows:

(1) Every licensee shall keep and maintain a record of all operations conducted by him or her pursuant to his or her license and each permit, showing the method employed, the type of equipment used, materials and amounts thereof used, the times and places of operation of the equipment, the name and post office address of each individual participating or assisting in the operation other than the licensee, and such other general information as may be required by the department and shall report the same to the department at the time and in the manner required.

(2) The department shall require written reports in such manner as it provides but not inconsistent with the provisions of this chapter, covering each operation for which a permit is issued. Further, the department shall require written reports from such organizations as are exempted from license, permit, and liability requirements as provided in RCW 43.37.090 (as recodified by this act).

(3) The reports and records in the custody of the department shall be open for public examination.

Sec. 1049. RCW 43.37.220 and 1981 c 278 s 3 are each amended to read as follows:

Upon a proclamation of a state of emergency, related to a lack of precipitation or a shortage of water supply, by the governor under RCW 43.06.210, the department shall exempt a licensee from the requirements of RCW 43.37.110 (2) and (6) and ((RCW)) 43.37.140 (as recodified by this act).

Sec. 1050. RCW 43.41.270 and 2009 c 345 s 12 are each amended to read as follows:

(1) The office of financial management shall assist natural resource-related agencies in developing outcome-focused performance measures for administering natural resource-related and environmentally based grant and loan programs. These performance measures are to be used in determining grant eligibility, for program management and performance assessment.

(2) The office of financial management and the recreation and conservation office shall assist natural resource-related agencies in developing recommendations for a monitoring program to measure outcome-focused performance measures required by this section. The recommendations must be consistent with the framework and coordinated monitoring strategy developed by the monitoring oversight committee established in RCW 77.85.210.

(3) Natural resource agencies shall consult with grant or loan recipients including local governments, tribes, nongovernmental organizations, and other interested parties, and report to the office of financial management on the implementation of this section.

(4) For purposes of this section, "natural resource-related agencies" include the department of ecology, the department of natural resources, the department of fish and wildlife, the state conservation commission, the recreation and conservation funding board, the salmon recovery funding board, and the public works board within the department of ((community, trade, and economic development)) commerce.

(5) For purposes of this section, "natural resource-related environmentally based grant and loan programs" includes the conservation reserve enhancement program; dairy nutrient management grants under chapter 90.64 RCW; state

conservation commission water quality grants under chapter 89.08 RCW; coordinated prevention grants, public participation grants, and remedial action grants under RCW (~~(70.105D-070)~~) 70.105D.200 (as recodified by this act); water pollution control facilities financing under chapter 70.146 RCW (as recodified by this act); aquatic lands enhancement grants under RCW 79.105.150; habitat grants under the Washington wildlife and recreation program under RCW 79A.15.040; salmon recovery grants under chapter 77.85 RCW; and the public works trust fund program under chapter 43.155 RCW. The term also includes programs administered by the department of fish and wildlife related to protection or recovery of fish stocks which are funded with moneys from the capital budget.

Sec. 1051. RCW 43.131.394 and 2018 c 194 s 2 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2030:

(1) RCW 90.76.005 (as recodified by this act) and 2007 c 147 s 1 & 1989 c 346 s 1;

(2) RCW 90.76.010 (as recodified by this act) and 2013 c 144 s 53, 2011 c 298 s 39, 2007 c 147 s 2, 1998 c 155 s 1, & 1989 c 346 s 2;

(3) RCW 90.76.020 (as recodified by this act) and 2013 c 144 s 54, 2011 c 298 s 40, 2007 c 147 s 3, 1998 c 155 s 2, & 1989 c 346 s 3;

(4) RCW 90.76.040 (as recodified by this act) and 1998 c 155 s 3 & 1989 c 346 s 5;

(5) RCW 90.76.050 (as recodified by this act) and 2007 c 147 s 4, 1998 c 155 s 4, & 1989 c 346 s 6;

(6) RCW 90.76.060 (as recodified by this act) and 1998 c 155 s 5 & 1989 c 346 s 7;

(7) RCW 90.76.070 (as recodified by this act) and 2007 c 147 s 5 & 1989 c 346 s 8;

(8) RCW 90.76.080 (as recodified by this act) and 2007 c 147 s 6, 1995 c 403 s 639, & 1989 c 346 s 9;

(9) RCW 90.76.090 (as recodified by this act) and 2007 c 147 s 7, 1998 c 155 s 6, & 1989 c 346 s 10;

(10) RCW 90.76.100 (as recodified by this act) and 1991 sp.s. c 13 s 72 & 1989 c 346 s 11;

(11) RCW 90.76.110 (as recodified by this act) and 2007 c 147 s 8, 1991 c 83 s 1, & 1989 c 346 s 12;

(12) RCW 90.76.900 (as recodified by this act) and 1989 c 346 s 15;

(13) RCW 90.76.901 (as recodified by this act) and 1989 c 346 s 14; and

(14) RCW 90.76.902 (as recodified by this act) and 1989 c 346 s 18.

Sec. 1052. RCW 43.146.900 and 1987 c 90 s 2 are each amended to read as follows:

(1) Section 1 of this act shall constitute a new chapter in Title ((43)) 70A RCW.

(2) The Washington state designee to the committee shall be appointed by the governor.

Sec. 1053. RCW 43.200.015 and 2012 c 19 s 1 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Commercial low-level radioactive waste disposal facility" has the same meaning as "facility" as defined in RCW 43.145.010 (as recodified by this act).

(2) "Department" means the department of ecology.

(3) "High-level radioactive waste" means "high-level radioactive waste" as the term is defined in 42 U.S.C. Sec. 10101 (P.L. 97-425).

(4) "Low-level radioactive waste" means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than one hundred nanocuries of transuranic contaminants per gram of material, nor spent nuclear fuel, nor material classified as either high-level radioactive waste or waste that is unsuited for disposal by near-surface burial under any applicable federal regulations.

(5) "Radioactive waste" means both high-level and low-level radioactive waste.

(6) "Spent nuclear fuel" means spent nuclear fuel as the term is defined in 42 U.S.C. Sec. 10101.

Sec. 1054. RCW 43.200.070 and 1989 c 322 s 5 are each amended to read as follows:

The department of ecology shall adopt such rules as are necessary to carry out responsibilities under this chapter. The department of ecology is authorized to adopt such rules as are necessary to carry out its responsibilities under chapter 43.145 RCW (as recodified by this act).

Sec. 1055. RCW 43.200.080 and 2012 c 19 s 2 are each amended to read as follows:

The director of ecology shall, in addition to the powers and duties otherwise imposed by law, have the following special powers and duties:

(1) To fulfill the responsibilities of the state under the lease between the state of Washington and the federal government executed September 10, 1964, as amended, covering approximately one hundred fifteen acres of land lying within the Hanford reservation near Richland, Washington. The department of ecology may sublease to private or public entities all or a portion of the land for specific purposes or activities which are determined, after public hearing, to be in agreement with the terms of the lease and in the best interests of the citizens of the state consistent with any criteria that may be developed as a requirement by the legislature;

(2) To assume the responsibilities of the state under the perpetual care agreement between the state of Washington and the federal government executed July 29, 1965, and the sublease between the state of Washington and the site operator of the commercial low-level radioactive waste disposal facility. In order to finance perpetual surveillance and maintenance under the agreement and ensure site closure under the sublease, the department of ecology shall impose and collect fees from parties holding radioactive materials for waste management purposes. The fees shall be established by rule adopted under chapter 34.05 RCW and shall be an amount determined by the department of ecology to be necessary to defray the estimated liability of the state. Such fees

shall reflect equity between the disposal facilities of this and other states. A site closure account and a perpetual surveillance and maintenance account are hereby created in the state treasury. Site use permit fees collected by the department of health under RCW 70.98.085(3) (as recodified by this act) must be deposited in the site closure account and must be used as specified in RCW 70.98.085(3) (as recodified by this act). Funds in the site closure account other than site use permit fee funds shall be exclusively available to reimburse, to the extent that moneys are available in the account, the site operator for its costs plus a reasonable profit as agreed by the operator and the state, or to reimburse the state licensing agency and any agencies under contract to the state licensing agency for their costs in final closure and decommissioning of the commercial low-level radioactive waste disposal facility. If a balance remains in the account after satisfactory performance of closure and decommissioning, this balance shall be transferred to the perpetual surveillance and maintenance account. The perpetual surveillance and maintenance account shall be used exclusively by the state to meet post-closure surveillance and maintenance costs, or for otherwise satisfying surveillance and maintenance obligations. Appropriations are required to permit expenditures and payment of obligations from the site closure account and the perpetual surveillance and maintenance account. Receipts shall be directed to the site closure account and the perpetual surveillance and maintenance account as specified by the department. Additional moneys specifically appropriated by the legislature or received from any public or private source may be placed in the site closure account and the perpetual surveillance and maintenance account. During the 2003-2005 fiscal biennium, the legislature may transfer up to thirteen million eight hundred thousand dollars from the site closure account to the general fund;

(3)(a) Subject to the conditions in (b) of this subsection, on July 1, 2008, and each July 1st thereafter, the treasurer shall transfer from the perpetual surveillance and maintenance account to the site closure account the sum of nine hundred sixty-six thousand dollars. The nine hundred sixty-six thousand dollars transferred on July 1, 2009, and thereafter shall be adjusted to a level equal to the percentage increase in the United States implicit price deflator for personal consumption. The last transfer under this section shall occur on July 1, 2033.

(b) The transfer in (a) of this subsection shall occur only if written agreement is reached between the state department of ecology and the United States department of energy pursuant to section 6 of the perpetual care agreement dated July 29, 1965, between the United States atomic energy commission and the state of Washington. If agreement cannot be reached between the state department of ecology and the United States department of energy by June 1, 2008, the treasurer shall transfer the funds from the general fund to the site closure account according to the schedule in (a) of this subsection.

(c) If for any reason the commercial low-level radioactive waste disposal facility is closed to further disposal operations during or after the 2003-2005 biennium and before 2033, then the amount remaining to be repaid from the 2003-2005 transfer of thirteen million eight hundred thousand dollars from the site closure account shall be transferred by the treasurer from the general fund to the site closure account to fund the closure and decommissioning of the facility. The treasurer shall transfer to the site closure account in full the amount

remaining to be repaid upon written notice from the secretary of health that the department of health has authorized closure or that disposal operations have ceased. The treasurer shall complete the transfer within sixty days of written notice from the secretary of health.

(d) To the extent that money in the site closure account together with the amount of money identified for repayment to the site closure account, pursuant to (a) through (c) of this subsection, equals or exceeds the cost estimate approved by the department of health for closure and decommissioning of the facility, the money in the site closure account together with the amount of money identified for repayment to the site closure account shall constitute adequate financial assurance for purposes of the department of health financial assurance requirements;

(4) To assure maintenance of such insurance coverage by state licensees, lessees, or sublessees as will adequately, in the opinion of the director, protect the citizens of the state against nuclear accidents or incidents that may occur on privately or state-controlled nuclear facilities;

(5) To make application for or otherwise pursue any federal funds to which the state may be eligible, through the federal resource conservation and recovery act or any other federal programs, for the management, treatment or disposal, and any remedial actions, of wastes that are both radioactive and hazardous at all commercial low-level radioactive waste disposal facilities; and

(6) To develop contingency plans for duties and options for the department and other state agencies related to the commercial low-level radioactive waste disposal facility based on various projections of annual levels of waste disposal. These plans shall include an analysis of expected revenue to the state in various taxes and funds related to low-level radioactive waste disposal and the resulting implications that any increase or decrease in revenue may have on state agency duties or responsibilities. The plans shall be updated annually.

Sec. 1056. RCW 43.200.170 and 2012 c 19 s 3 are each amended to read as follows:

The governor may assess surcharges and penalty surcharges on the disposal of waste at the commercial low-level radioactive waste disposal facility. The surcharges may be imposed up to the maximum extent permitted by federal law. Ten dollars per cubic foot of the moneys received under this section shall be transmitted monthly to the site closure account established under RCW 43.200.080 (as recodified by this act). The rest of the moneys received under this section shall be deposited in the general fund.

Sec. 1057. RCW 43.200.180 and 2012 c 19 s 4 are each amended to read as follows:

Except as provided in chapter 70.98 RCW (as recodified by this act) related to administration of a user permit system, the department of ecology shall be the state agency responsible for implementation of the federal low-level radioactive waste policy amendments act of 1985, including:

(1) Collecting and administering the surcharge assessed by the governor under RCW 43.200.170 (as recodified by this act);

(2) Collecting low-level radioactive waste data from disposal facility operators, generators, intermediate handlers, and the federal department of energy;

(3) Developing and operating a computerized information system to manage low-level radioactive waste data;

(4) Denying and reinstating access to the commercial low-level radioactive waste disposal facility pursuant to the authority granted under federal law;

(5) Administering and/or monitoring (a) the maximum waste volume levels for the commercial low-level radioactive waste disposal facility, (b) reactor waste allocations, (c) priority allocations under the Northwest Interstate Compact on Low-Level Radioactive Waste Management, and (d) adherence by other states and compact regions to federal statutory deadlines; and

(6) Coordinating the state's low-level radioactive waste disposal program with similar programs in other states.

Sec. 1058. RCW 43.200.220 and 1990 c 21 s 4 are each amended to read as follows:

Beginning January 1, 1993, the department of ecology may impose a reasonable site closure fee if necessary to be deposited in the site closure account established under RCW 43.200.080 (as recodified by this act). The department may continue to collect moneys for the site closure account until the account contains an amount sufficient to complete the closure plan, as specified in the radioactive materials license issued by the department of health.

Sec. 1059. RCW 43.200.230 and 2012 c 19 s 7 are each amended to read as follows:

The director of the department of ecology shall require that generators of waste pay a fee for each cubic foot of waste disposed at any facility in the state equal to six dollars and fifty cents. The fee shall be imposed specifically on the generator of the waste and shall not be considered to apply in any way to the low-level site operator's disposal activities. The fee shall be allocated in accordance with RCW 43.200.233 and 43.200.235 (as recodified by this act). Failure to comply with this section may result in denial or suspension of the generator's site use permit pursuant to RCW 70.98.085 (as recodified by this act).

Sec. 1060. RCW 43.200.233 and 1991 c 272 s 17 are each amended to read as follows:

A portion of the surcharge received under RCW 43.200.230 (as recodified by this act) shall be remitted monthly to the county in which the low-level radioactive waste disposal facility is located in the following manner:

(1) During 1993, six dollars and fifty cents per cubic foot of waste;

(2) During 1994, three dollars and twenty-five cents per cubic foot of waste; and

(3) During 1995 and thereafter, two dollars per cubic foot of waste.

Sec. 1061. RCW 43.200.235 and 1991 c 272 s 18 are each amended to read as follows:

Except for moneys that may be remitted to a county in which a low-level radioactive waste disposal facility is located, all surcharges authorized under RCW 43.200.230 (as recodified by this act) shall be deposited in the fund created in RCW 43.31.422.

Sec. 1062. RCW 43.200.905 and 1986 c 191 s 4 are each amended to read as follows:

The provisions of this act shall not have the effect of reducing the level of liability coverage required under any law, regulation, or contract of the state before December 31, 1987, or the effective date of the first determination made pursuant to RCW 43.200.200 (as recodified by this act), if earlier.

Sec. 1063. RCW 43.200.907 and 2012 c 19 s 14 are each amended to read as follows:

(1) The site use permit program is transferred from the department of ecology to the department of health.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of ecology site use permit program shall be delivered to the custody of the department of health. All funds, credits, or other assets held by the department of ecology site use permit program shall be assigned to the department of health.

(b) Any appropriations made to the department of ecology for the site use permit program shall be transferred and credited to the department of health.

(3) All rules of the department of ecology site use permit program shall be continued and acted upon by the department of health until new rules are adopted under RCW 70.98.085 (as recodified by this act). All permit applications and pending business before the department of ecology site use permit program shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(4) The transfer of the powers, duties, functions, and personnel of the department of ecology site use permit program to the department of health under chapter 19, Laws of 2012 shall not affect the validity of any activity performed before July 1, 2012.

Sec. 1064. RCW 64.70.020 and 2017 c 23 s 6 are each amended to read as follows:

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

(1) "Activity or use limitations" means restrictions or obligations created under this chapter with respect to real property.

(2) "Agency" means either the department of ecology, the pollution liability insurance agency, or the United States environmental protection agency, whichever determines or approves the environmental response project pursuant to which the environmental covenant is created.

(3)(a) "Common interest community" means a condominium, cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums, or for maintenance, or improvement of other real property described in a recorded covenant that creates the common interest community.

(b) "Common interest community" includes but is not limited to:

(i) An association of apartment owners as defined in RCW 64.32.010;

(ii) A unit owners' association as defined in RCW 64.34.020 and organized under RCW 64.34.300;

(iii) A master association as provided in RCW 64.34.276;

(iv) A subassociation as provided in RCW 64.34.278; and

(v) A homeowners' association as defined in RCW 64.38.010.

(4) "Environmental covenant" means a servitude arising under an environmental response project that imposes activity or use limitations.

(5) "Environmental response project" means a plan or work performed for environmental remediation of real property and conducted:

(a) Under a federal or state program governing environmental remediation of real property, including chapters 43.21C, 64.44, 70.95 (as recodified by this act), 70.98 (as recodified by this act), 70.105 (as recodified by this act), 70.105D (as recodified by this act), 90.48, and 90.52 RCW;

(b) Incident to closure of a solid or hazardous waste management unit, if the closure is conducted with approval of an agency; or

(c) Under the state voluntary clean-up program authorized under chapter 70.105D RCW (as recodified by this act) or technical assistance program authorized under chapter 70.149 RCW (as recodified by this act).

(6) "Holder" means the grantee of an environmental covenant as specified in RCW 64.70.030(1).

(7) "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.

(8) "Record," used as a noun, 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.

(9) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Sec. 1065. RCW 64.70.040 and 2007 c 104 s 5 are each amended to read as follows:

(1) An environmental covenant must:

(a) State that the instrument is an environmental covenant executed pursuant to this chapter;

(b) Contain a legally sufficient description of the real property subject to the covenant;

(c) Describe with specificity the activity or use limitations on the real property;

(d) Identify every holder;

(e) Be signed by the agency, every holder, and unless waived by the agency every owner of the fee simple of the real property subject to the covenant; and

(f) Identify the name and location of any administrative record for the environmental response project reflected in the environmental covenant.

(2) In addition to the information required by subsection (1) of this section, an environmental covenant may contain other information, restrictions, and requirements agreed to by the persons who signed it, including any:

(a) Requirements for notice following transfer of a specified interest in, or concerning proposed changes in use of, applications for building permits for, or proposals for any site work affecting the contamination on, the property subject to the covenant;

(b) Requirements for periodic reporting describing compliance with the covenant;

(c) Rights of access to the property granted in connection with implementation or enforcement of the covenant;

(d) Narrative descriptions of the contamination and remedy, including the contaminants of concern, the pathways of exposure, limits on exposure, and the location and extent of the contamination;

(e) Limitations on amendment or termination of the covenant in addition to those contained in RCW 64.70.090 and 64.70.100;

(f) Rights of the holder in addition to its right to enforce the covenant pursuant to RCW 64.70.110;

(g) Other information, restrictions, or requirements required by the agency, including the department of ecology under the authority of chapter 70.105D RCW (as recodified by this act).

(3) In addition to other conditions for its approval of an environmental covenant, the agency may require those persons specified by the agency who have interests in the real property to sign the covenant.

(4) The agency may also require notice and opportunity to comment upon an environmental covenant as part of public participation efforts related to the environmental response project.

(5) The agency shall consult with local land use planning authorities in the development of the land use or activity restrictions in the environmental covenant. The agency shall consider potential redevelopment and revitalization opportunities and obtain information regarding present and proposed land and resource uses, and consider comprehensive land use plan and zoning provisions applicable to the real property to be subject to the environmental covenant.

Sec. 1066. RCW 70.05.070 and 2013 c 200 s 26 are each amended to read as follows:

The local health officer, acting under the direction of the local board of health or under direction of the administrative officer appointed under RCW 70.05.040 or 70.05.035, if any, shall:

(1) Enforce the public health statutes of the state, rules of the state board of health and the secretary of health, and all local health rules, regulations and ordinances within his or her jurisdiction including imposition of penalties authorized under RCW 70.119A.030 and 70.118.130 (as recodified by this act), the confidentiality provisions in RCW 70.02.220 and rules adopted to implement those provisions, and filing of actions authorized by RCW 43.70.190;

(2) Take such action as is necessary to maintain health and sanitation supervision over the territory within his or her jurisdiction;

(3) Control and prevent the spread of any dangerous, contagious or infectious diseases that may occur within his or her jurisdiction;

(4) Inform the public as to the causes, nature, and prevention of disease and disability and the preservation, promotion and improvement of health within his or her jurisdiction;

(5) Prevent, control or abate nuisances which are detrimental to the public health;

(6) Attend all conferences called by the secretary of health or his or her authorized representative;

(7) Collect such fees as are established by the state board of health or the local board of health for the issuance or renewal of licenses or permits or such

other fees as may be authorized by law or by the rules of the state board of health;

(8) Inspect, as necessary, expansion or modification of existing public water systems, and the construction of new public water systems, to assure that the expansion, modification, or construction conforms to system design and plans;

(9) Take such measures as he or she deems necessary in order to promote the public health, to participate in the establishment of health educational or training activities, and to authorize the attendance of employees of the local health department or individuals engaged in community health programs related to or part of the programs of the local health department.

Sec. 1067. RCW 70.75A.040 and 2018 c 286 s 5 are each amended to read as follows:

(1) A manufacturer of class B firefighting foam restricted under RCW 70.75A.020 (as recodified by this act) must notify, in writing, persons that sell the manufacturer's products in this state about the provisions of this chapter no less than one year prior to the effective date of the restrictions.

(2) A manufacturer that produces, sells, or distributes a class B firefighting foam prohibited under RCW 70.75A.020 (as recodified by this act) shall recall the product and reimburse the retailer or any other purchaser for the product.

Sec. 1068. RCW 70.75A.060 and 2019 c 422 s 403 are each amended to read as follows:

A manufacturer of class B firefighting foam in violation of RCW 70.75A.020 or 70.75A.040 (as recodified by this act) or a person in violation of RCW 70.75A.010 or 70.75A.030 (as recodified by this act) is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers, local governments, or persons that are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70.105D.190 (as recodified by this act).

Sec. 1069. RCW 70.76.020 and 2007 c 65 s 3 are each amended to read as follows:

After January 1, 2008, no person may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state noncombustible products containing PBDEs. Exemptions from the prohibition in this section are limited to the following:

(1) Products containing deca-bde, except as provided in RCW 70.76.030 (as recodified by this act);

(2) The sale or distribution of any used transportation vehicle manufactured before January 1, 2008, with component parts containing PBDEs;

(3) The sale or distribution of any used transportation vehicle parts or new transportation vehicle parts manufactured before January 1, 2008, that contain PBDEs;

(4) The manufacture, sale, repair, distribution, maintenance, refurbishment, or modification of equipment containing PBDEs and used primarily for military or federally funded space program applications. The exemption in this subsection (4) does not cover consumer-based goods with broad applicability;

(5) Federal aviation administration fire worthiness requirements and recommendations;

(6) The manufacture, sale, repair, distribution, maintenance, refurbishment, or modification of any new raw material or component part used in a transportation vehicle with component parts, including original spare parts, containing deca-bde;

(7) The use of commercial deca-bde in the maintenance, refurbishment, or modification of transportation equipment;

(8) The sale or distribution of any product containing PBDEs that has been previously owned, purchased, or sold in commerce, provided it was manufactured before the effective date of the prohibition;

(9) The manufacture, sale, or distribution of any new product or product component consisting of recycled or used materials containing deca-bde;

(10) The sale or purchase of any previously owned product containing PBDEs made in casual or isolated sales as defined in RCW 82.04.040 and to sales by nonprofit organizations;

(11) The manufacture, sale, or distribution of new carpet cushion made from recycled foam containing less than one-tenth of one percent penta-bde; and

(12) Medical devices.

Sec. 1070. RCW 70.76.030 and 2007 c 65 s 4 are each amended to read as follows:

(1) Except as provided in RCW 70.76.090 (as recodified by this act), no person may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state mattresses containing commercial deca-bde after January 1, 2008.

(2) Except as provided in RCW 70.76.090 (as recodified by this act), no person may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state residential upholstered furniture that contains commercial deca-bde, or any television or computer that has an electronic enclosure that contains commercial deca-bde after the effective date established in subsection (3) of this section. This prohibition may not take effect until the department and the department of health identify that a safer and technically feasible alternative is available, and the fire safety committee, created in RCW 70.76.040 (as recodified by this act), determines that the identified alternative meets applicable fire safety standards. The effective date of the prohibition must be established according to the following process:

(a) The department and the department of health shall review risk assessments, scientific studies, and other relevant findings regarding alternatives to the use of commercial deca-bde in residential upholstered furniture, televisions, and computers.

(b) If the department and the department of health jointly find that safer and technically feasible alternatives are available for any of these uses, the department shall convene the fire safety committee created in RCW 70.76.040 (as recodified by this act) to determine whether the identified alternatives meet applicable fire safety standards.

(c) By majority vote, the fire safety committee created in RCW 70.76.040 (as recodified by this act) shall make a finding whether an alternative identified under (b) of this subsection meets applicable fire safety standards. The fire safety committee shall report their finding to the state fire marshal. After

reviewing the finding of the fire safety committee, the state fire marshal shall determine whether an alternative identified under (b) of this subsection meets applicable fire safety standards. The determination of the fire marshal must be based upon the finding of the fire safety committee. The state fire marshal shall report the determination to the department.

(d) The department shall seek public input on their findings, the findings of the fire safety committee, and the determination by the state fire marshal. The department shall publish these findings in the Washington State Register, and submit them in a report to the appropriate committees of the legislature. The department shall initially report these findings by December 31, 2008.

(3) The effective date of the prohibition is as follows:

(a) If the December 31, 2008, report required in subsection (2)(d) of this section finds that a safer and technically feasible alternative that meets applicable fire safety standards is available, the prohibition takes effect January 1, 2011;

(b) If the December 31, 2008, report required in subsection (2)(d) of this section does not find that a safer and technically feasible alternative that meets applicable fire safety standards is available, the prohibition does not take effect January 1, 2011. Beginning in 2009, by December 31st of each year, the department shall review and report on alternatives as described in subsection (2) of this section. The prohibition in subsection (2) of this section takes effect two years after a report submitted to the legislature required under subsection (2)(d) of this section finds that a safer and technically feasible alternative that meets applicable fire safety standards is available.

Sec. 1071. RCW 70.76.040 and 2007 c 65 s 5 are each amended to read as follows:

(1) The fire safety committee is created for the exclusive purpose of finding whether an alternative identified under RCW 70.76.030(2)(b) (as recodified by this act) meets applicable fire safety standards.

(2) A majority vote of the members of the fire safety committee constitutes a finding that an alternative meets applicable fire safety standards.

(3) The fire safety committee consists of the following members:

(a) A representative from the department, who shall chair the fire safety committee, and serve as an ex officio nonvoting member.

(b) Five voting members, appointed by the governor, as follows:

(i) A representative of the office of the state fire marshal;

(ii) A representative of a statewide association representing the interests of fire chiefs;

(iii) A representative of a statewide association representing the interests of fire commissioners;

(iv) A representative of a recognized statewide council, affiliated with an international association representing the interests of firefighters; and

(v) A representative of a statewide association representing the interests of volunteer firefighters.

Sec. 1072. RCW 70.76.050 and 2007 c 65 s 6 are each amended to read as follows:

The department and the department of health shall review risk assessments, scientific studies, and other relevant findings regarding alternatives to the use of

commercial deca-bde in products not directly addressed in this chapter. If a flame retardant that is safer and technically feasible becomes available, the department shall convene the fire safety committee created in RCW 70.76.040 (as recodified by this act). The fire safety committee and the state fire marshal shall proceed as required in RCW 70.76.030(2)(c) (as recodified by this act) to determine if the identified alternative meets applicable fire safety standards. The department and the department of health shall also review risk assessments, scientific studies, and other findings regarding the potential effect of PBDEs in the waste stream. By December 31st of the year in which the finding is made, the department must publish the information required by this ~~((subsection))~~ section in the Washington State Register and present it in a report to the appropriate committees of the legislature.

Sec. 1073. RCW 70.76.090 and 2007 c 65 s 10 are each amended to read as follows:

(1) Retailers who unknowingly sell products prohibited under RCW 70.76.020 or 70.76.030 (as recodified by this act) are not liable under this chapter.

(2) In-state retailers in possession of products on the date that restrictions on the sale of the products become effective under RCW 70.76.020 or 70.76.030 (as recodified by this act) may exhaust their existing stock through sales to the public.

(3) The department must assist in-state retailers in identifying potential products containing PBDEs.

(4) If a retailer unknowingly possesses products that are prohibited for sale under RCW 70.76.020 or 70.76.030 (as recodified by this act) and the manufacturer does not recall the products as required under RCW 70.76.100(2) (as recodified by this act), the retailer may exhaust its existing stock through sales to the public. However, no additional prohibited stock may be sold or offered for sale.

Sec. 1074. RCW 70.76.100 and 2019 c 422 s 404 are each amended to read as follows:

(1) Enforcement of this chapter must rely on notification and information exchange between the department and manufacturers. The department must achieve compliance with this chapter using the following enforcement sequence:

(a) Before the effective date of the product prohibition in RCW 70.76.020 or 70.76.030 (as recodified by this act), the department must prepare and distribute information to in-state manufacturers and out-of-state manufacturers, to the maximum extent practicable, to assist them in identifying products prohibited for manufacture, sale, or distribution under this chapter.

(b) The department may request a certificate of compliance from a manufacturer. A certificate of compliance attests that a manufacturer's product or products meets the requirements of this chapter.

(c) The department may issue a warning letter to a manufacturer that produces, sells, or distributes prohibited products in violation of this chapter. The department must offer information or other appropriate assistance to the manufacturer in complying with this chapter. If, after one year, compliance is not achieved, penalties may be assessed under subsection (3) of this section.

(2) A manufacturer that knowingly produces, sells, or distributes a product prohibited from manufacture, sale, or distribution in this state under this chapter must recall the product and reimburse the retailer or any other purchaser for the product and any applicable shipping and handling for returning the products.

(3) A manufacturer of products containing PBDEs in violation of this chapter is subject to a civil penalty not to exceed one thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed five thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70.105D.190 (as recodified by this act).

Sec. 1075. RCW 70.93.095 and 1991 c 11 s 2 are each amended to read as follows:

(1) Each marina with thirty or more slips and each airport providing regularly scheduled commercial passenger service shall provide adequate recycling receptacles on, or adjacent to, its facility. The receptacles shall be clearly marked for the disposal of at least two of the following recyclable materials: Aluminum, glass, newspaper, plastic, and tin.

(2) Marinas and airports subject to this section shall not be required to provide recycling receptacles until the city or county in which it is located adopts a waste reduction and recycling element of a solid waste management plan pursuant to RCW 70.95.090 (as recodified by this act).

Sec. 1076. RCW 70.93.180 and 2019 c 255 s 3 and 2019 c 166 s 5 are each reenacted and amended to read as follows:

(1) There is hereby created an account within the state treasury to be known as the waste reduction, recycling, and litter control account. Moneys in the account may be spent only after appropriation. Expenditures from the waste reduction, recycling, and litter control account shall be used as follows:

(a) Forty percent to the department of ecology, primarily for use by the departments of ecology, natural resources, revenue, transportation, and corrections, and the parks and recreation commission, for litter collection programs under RCW 70.93.220 (as recodified by this act). The amount to the department of ecology shall also be used for a central coordination function for litter control efforts statewide; to support employment of youth in litter cleanup as intended in RCW 70.93.020 (as recodified by this act), and for litter pick up using other authorized agencies; and for statewide public awareness programs under RCW 70.93.200(7) (as recodified by this act). The amount to the department shall also be used to defray the costs of administering the funding, coordination, and oversight of local government programs for waste reduction, litter control, recycling, and composting so that local governments can apply one hundred percent of their funding to achieving program goals. The amount to the department of revenue shall be used to enforce compliance with the litter tax imposed in chapter 82.19 RCW;

(b)(i) Twenty percent to the department for local government funding programs for waste reduction, litter control, recycling activities, and composting activities by cities and counties under RCW 70.93.250 (as recodified by this act), to be administered by the department of ecology; (ii) any unspent funds under (b)(i) of this subsection may be used to create and pay for a matching fund

competitive grant program to be used by local governments for the development and implementation of contamination reduction and outreach plans for inclusion in comprehensive solid waste management plans or by local governments and nonprofit organizations for local or statewide education programs designed to help the public with litter control, waste reduction, recycling, and composting of primarily the products taxed under chapter 82.19 RCW. Recipients under this subsection include programs to reduce wasted food and food waste that are designed to achieve the goals established in RCW 70.95.815(1) (as recodified by this act) and that are consistent with the plan developed in RCW 70.95.815(3) (as recodified by this act). Grants must adhere to the following requirements: (A) No grant may exceed sixty thousand dollars; (B) grant recipients shall match the grant funding allocated by the department by an amount equal to twenty-five percent of eligible expenses. A local government's share of these costs may be met by cash or contributed services; (C) the obligation of the department to make grant payments is contingent upon the availability of the amount of money appropriated for this subsection (1)(b); and (D) grants are managed under the guidelines for existing grant programs; and

(c) Forty percent to the department of ecology to: (i) Implement activities under RCW 70.93.200 (as recodified by this act) for waste reduction, recycling, and composting efforts; (ii) provide technical assistance to local governments and commercial businesses to increase recycling markets and recycling and composting programs primarily for the products taxed under chapter 82.19 RCW designed to educate citizens about waste reduction, litter control, and recyclable and compostable products and programs; (iii) increase access to waste reduction, composting, and recycling programs, particularly for food packaging and plastic bags and appropriate composting techniques; and (iv) for programs to reduce wasted food and food waste that are designed to achieve the goals established in RCW 70.95.815(1) (as recodified by this act) and that are consistent with the plan developed in RCW 70.95.815(3) (as recodified by this act).

(2) All taxes imposed in RCW 82.19.010 and fines and bail forfeitures collected or received pursuant to this chapter shall be deposited in the waste reduction, recycling, and litter control account and used for the programs under subsection (1) of this section.

(3) Not less than five percent and no more than ten percent of the amount appropriated into the waste reduction, recycling, and litter control account every biennium shall be reserved for capital needs, including the purchase of vehicles for transporting crews and for collecting litter and solid waste. Capital funds shall be distributed among state agencies and local governments according to the same criteria provided in RCW 70.93.220 (as recodified by this act) for the remainder of the funds, so that the most effective waste reduction, litter control, recycling, and composting programs receive the most funding. The intent of this subsection is to provide funds for the purchase of equipment that will enable the department to account for the greatest return on investment in terms of reaching a zero litter goal.

(4) Funds in the waste reduction, recycling, and litter control account, collected under chapter 82.19 RCW, must be prioritized for the products identified under RCW 82.19.020 solely for the purposes of recycling, composting, and litter collection, reduction, and control programs.

Sec. 1077. RCW 70.93.200 and 2015 c 15 s 4 are each amended to read as follows:

In addition to the foregoing, the department of ecology shall use the moneys from RCW 70.93.180 (as recodified by this act) of the waste reduction, recycling, and litter control account to:

(1) Serve as the coordinating agency between the various industry organizations seeking to aid in the waste reduction, anti-litter, recycling, and composting efforts;

(2) Serve as the coordinating and administrating agency for all state agencies and local governments receiving funds for waste reduction, litter control, recycling, and composting under this chapter;

(3) Recommend to the governing bodies of all local governments that they adopt ordinances similar to the provisions of this chapter;

(4) Cooperate with all local governments to accomplish coordination of local waste reduction, anti-litter, recycling, and composting efforts;

(5) Encourage, organize, and coordinate all voluntary local waste reduction, anti-litter, and recycling campaigns seeking to focus the attention of the public on the programs of this state to reduce waste, control and remove litter, and foster recycling and composting;

(6) Investigate the availability of, and apply for funds available from any private or public source to be used in the program outlined in this chapter;

(7) Develop statewide programs by working with local governments, payers of the waste reduction, recycling, and litter control tax, and industry organizations that are active in waste reduction, anti-litter, recycling, and composting efforts to:

(a) Increase public awareness of and participation in recycling and composting; and

(b) Stimulate and encourage local private recycling and composting centers, public participation in recycling and composting, and research and development in the field of litter control, and recycling, removal, and disposal of litter-related recycling materials, and composting; and

(8) Provide on the department's web site a summary of all waste reduction, litter control, recycling, and composting efforts statewide including those of the department and other state agencies and local governments funded for such programs under this chapter.

Sec. 1078. RCW 70.93.220 and 2014 c 76 s 3 are each amended to read as follows:

(1) The department is the coordinating and administrative agency working with the departments of natural resources, revenue, transportation, and corrections, and the parks and recreation commission in developing a biennial budget request for funds for the various agencies' litter collection programs.

(2) Funds may be used to meet the needs of efficient and effective litter collection and illegal dumping programs identified by the various agencies. The department shall develop criteria for evaluating the effectiveness and efficiency of the waste reduction, litter control, and recycling programs being administered by the various agencies listed in RCW 70.93.180 (as recodified by this act), and shall distribute funds according to the effectiveness and efficiency of those programs. In addition, the department shall approve funding requests for

efficient and effective waste reduction, litter control, and recycling programs, provide funds, and monitor the results of all agency programs.

(3) All agencies are responsible for reporting information on their litter collection programs as requested by the department.

Sec. 1079. RCW 70.93.250 and 2014 c 76 s 4 are each amended to read as follows:

(1) The department shall provide funding to local units of government to establish, conduct, and evaluate community restitution and other programs for waste reduction, litter and illegal dump cleanup, and recycling. Programs eligible for funding under this section shall include, but not be limited to, programs established pursuant to RCW 72.09.260.

(2) Funds may be offered for costs associated with community waste reduction, litter cleanup and prevention, and recycling activities. The funding program must be flexible, allowing local governments to use funds broadly to meet their needs to reduce waste, control litter and illegal dumping, and promote recycling. Local governments are required to contribute resources or in-kind services. The department shall evaluate funding requests from local government according to the same criteria as those developed in RCW 70.93.220 (as recodified by this act), provide funds according to the effectiveness and efficiency of local government litter control programs, and monitor the results of all local government programs under this section.

(3) Local governments shall report information as requested by the department in funding agreements entered into by the department and a local government.

Sec. 1080. RCW 70.94.015 and 2019 c 284 s 6 are each amended to read as follows:

(1) The air pollution control account is established in the state treasury. All receipts collected by or on behalf of the department from RCW 70.94.151(2) (as recodified by this act), and receipts from nonpermit program sources under RCW 70.94.152(1) and 70.94.154(7) (as recodified by this act), and all receipts from RCW 70.94.6528 and 70.94.6534 (as recodified by this act) shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to develop and implement the provisions of (~~chapters 70.94 and~~) this chapter, chapter 70.120 RCW (as recodified by this act), and RCW 70.235.080 (as recodified by this act).

(2) The amounts collected and allocated in accordance with this section shall be expended upon appropriation except as otherwise provided in this section and in accordance with the following limitations:

Portions of moneys received by the department of ecology from the air pollution control account shall be distributed by the department to local authorities based on:

(a) The level and extent of air quality problems within such authority's jurisdiction;

(b) The costs associated with implementing air pollution regulatory programs by such authority; and

(c) The amount of funding available to such authority from other sources, whether state, federal, or local, that could be used to implement such programs.

(3) The air operating permit account is created in the custody of the state treasurer. All receipts collected by or on behalf of the department from permit program sources under RCW 70.94.152(1), 70.94.161, 70.94.162, and 70.94.154(7) (as recodified by this act) shall be deposited into the account. Expenditures from the account may be used only for the activities described in RCW 70.94.152(1), 70.94.161, 70.94.162, and 70.94.154(7) (as recodified by this act). Moneys in the account may be spent only after appropriation.

Sec. 1081. RCW 70.94.030 and 2005 c 197 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) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(2) "Air pollution" is presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interfere with enjoyment of life and property. For the purpose of this chapter, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW.

(3) "Air quality standard" means an established concentration, exposure time, and frequency of occurrence of an air contaminant or multiple contaminants in the ambient air which shall not be exceeded.

(4) "Ambient air" means the surrounding outside air.

(5) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(6) "Best available control technology" (BACT) means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under this chapter emitted from or that results from any new or modified stationary source, that the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such a source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such a pollutant. In no event shall application of "best available control technology" result in emissions of any pollutants that will exceed the emissions allowed by any applicable standard under 40 C.F.R. Part 60 and Part 61, as they exist on July 25, 1993, or their later enactments as adopted by reference by the director by rule. Emissions from any source utilizing clean fuels, or any other means, to comply with this subsection shall not be allowed to increase above levels that would have been required under the definition of BACT as it existed prior to enactment of the federal clean air act amendments of 1990.

(7) "Best available retrofit technology" (BART) means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant that is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at

the source, the remaining useful life of the source, and the degree of improvement in visibility that might reasonably be anticipated to result from the use of the technology.

(8) "Board" means the board of directors of an authority.

(9) "Control officer" means the air pollution control officer of any authority.

(10) "Department" or "ecology" means the department of ecology.

(11) "Emission" means a release of air contaminants into the ambient air.

(12) "Emission standard" and "emission limitation" mean a requirement established under the federal clean air act or this chapter that limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice, or operational standard adopted under the federal clean air act or this chapter.

(13) "Fine particulate" means particulates with a diameter of two and one-half microns and smaller.

(14) "Lowest achievable emission rate" (LAER) means for any source that rate of emissions that reflects:

(a) The most stringent emission limitation that is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation that is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

(15) "Modification" means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted. The term modification shall be construed consistent with the definition of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.

(16) "Multicounty authority" means an authority which consists of two or more counties.

(17) "New source" means (a) the construction or modification of a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted, and (b) any other project that constitutes a new source under the federal clean air act.

(18) "Permit program source" means a source required to apply for or to maintain an operating permit under RCW 70.94.161 (as recodified by this act).

(19) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision of the state, municipality, or governmental agency.

(20) "Reasonably available control technology" (RACT) means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact

of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for a source or source category shall be adopted only after notice and opportunity for comment are afforded.

(21) "Silvicultural burning" means burning of wood fiber on forestland consistent with the provisions of RCW ((70.94.660)) 70.94.6534 (as recodified by this act).

(22) "Source" means all of the emissions units including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person, or persons under common control, whose activities are ancillary to the production of a single product or functionally related group of products.

(23) "Stationary source" means any building, structure, facility, or installation that emits or may emit any air contaminant.

(24) "Trigger level" means the ambient level of fine particulates, measured in micrograms per cubic meter, that must be detected prior to initiating a first or second stage of impaired air quality under RCW 70.94.473 (as recodified by this act).

Sec. 1082. RCW 70.94.040 and 1980 c 175 s 2 are each amended to read as follows:

Except where specified in a variance permit, as provided in RCW 70.94.181 (as recodified by this act), it shall be unlawful for any person to cause air pollution or permit it to be caused in violation of this chapter, or of any ordinance, resolution, rule or regulation validly promulgated hereunder.

Sec. 1083. RCW 70.94.041 and 1991 c 199 s 506 are each amended to read as follows:

Except as otherwise provided in this section, any building or structure listed on the national register of historic sites, structures, or buildings established pursuant to 80 Stat. 915, 16 U.S.C. Sec. 470a, or on the state register established pursuant to RCW 27.34.220, shall be permitted to burn wood as it would have when it was a functioning facility as an authorized exception to the provisions of this chapter. Such burning of wood shall not be exempted from the provisions of RCW 70.94.710 through 70.94.730 (as recodified by this act).

Sec. 1084. RCW 70.94.053 and 1995 c 135 s 5 are each amended to read as follows:

(1) In each county of the state there is hereby created an air pollution control authority, which shall bear the name of the county within which it is located. The boundaries of each authority shall be coextensive with the boundaries of the county within which it is located. An authority shall include all incorporated and unincorporated areas of the county within which it is located.

(2) Except as provided in RCW 70.94.262 (as recodified by this act), all authorities which are presently activated authorities shall carry out the duties and exercise the powers provided in this chapter. Those activated authorities which encompass contiguous counties are declared to be and directed to function as a multicounty authority.

(3) All other air pollution control authorities are hereby designated as inactive authorities.

(4) The boards of those authorities designated as activated authorities by this chapter shall be comprised of such individuals as is provided in RCW 70.94.100 (as recodified by this act).

Sec. 1085. RCW 70.94.069 and 1969 ex.s. c 168 s 4 are each amended to read as follows:

Whenever there occurs a merger of an inactive authority with an activated authority or authorities, or of two activated authorities to form a multicounty authority, the board of directors shall be reorganized as provided in RCW 70.94.100, 70.94.110, and 70.94.120 (as recodified by this act).

In the case of the merger of two or more activated authorities the rules and regulations of each authority shall continue in effect and shall be enforced within the jurisdiction of each until such time as the board of directors adopts rules and regulations applicable to the newly formed multicounty authority.

In the case of the merger of an inactive authority with an activated authority or authorities, upon approval of such merger by the board or boards of county commissioners of the county or counties comprising the existing activated authority or authorities, the rules and regulations of the activated authority or authorities shall remain in effect until superseded by the rules and regulations of the multicounty authority as provided in RCW 70.94.230 (as recodified by this act).

Sec. 1086. RCW 70.94.100 and 2009 c 254 s 1 are each amended to read as follows:

(1) The governing body of each authority shall be known as the board of directors.

(2)(a) In the case of an authority comprised of one county, with a population of less than four hundred thousand people, the board shall be comprised of two appointees of the city selection committee, at least one of whom shall represent the city having the most population in the county, and two representatives to be designated by the board of county commissioners.

(b) In the case of an authority comprised of one county, with a population of equal to or greater than four hundred thousand people, the board shall be comprised of three appointees of cities, one each from the two cities with the most population in the county and one appointee of the city selection committee representing the other cities, and one representative to be designated by the board of county commissioners.

(c) In the case of an authority comprised of two, three, four, or five counties, the board shall be comprised of one appointee from each county, who shall represent the city having the most population in such county, to be designated by the mayor and city council of such city, and one representative from each county to be designated by the board of county commissioners of each county making up the authority.

(d) In the case of an authority comprised of six or more counties, the board shall be comprised of one representative from each county to be designated by the board of county commissioners of each county making up the authority, and three appointees, one each from the three largest cities within the local authority's jurisdiction to be appointed by the mayor and city council of such city.

(3) If the board of an authority otherwise would consist of an even number, the members selected as above provided shall agree upon and elect an additional member who shall be:

(a) In the case of an authority comprised of one county with a population of equal to or greater than four hundred thousand people, a citizen residing in the county who demonstrates significant professional experience in the field of public health, air quality protection, or meteorology; or

(b) In the case of an authority comprised of one county, with a population less than four hundred thousand people, or of more than one county, either a member of the governing body of one of the towns, cities or counties comprising the authority, or a private citizen residing in the authority.

(4) The terms of office of board members shall be four years.

(5) If an appointee is unable to complete his or her term as a board member, the vacancy for that office must be filled by the same method as the original appointment, except for the appointment by the city selection committee, which must use the method in RCW 70.94.120(1) (as recodified by this act) for replacements. The person appointed as a replacement will serve the remainder of the term for that office.

(6) Wherever a member of a board has a potential conflict of interest in an action before the board, the member shall declare to the board the nature of the potential conflict prior to participating in the action review. The board shall, if the potential conflict of interest, in the judgment of a majority of the board, may prevent the member from a fair and objective review of the case, remove the member from participation in the action.

Sec. 1087. RCW 70.94.130 and 1998 c 342 s 1 are each amended to read as follows:

The board shall exercise all powers of the authority except as otherwise provided. The board shall conduct its first meeting within thirty days after all of its members have been appointed or designated as provided in RCW 70.94.100 (as recodified by this act). The board shall meet at least ten times per year. All meetings shall be publicly announced prior to their occurrence. All meetings shall be open to the public. A majority of the board shall constitute a quorum for the transaction of business and shall be necessary for any action taken by the board. The board shall elect from its members a chair and such other officers as may be necessary. Any member of the board may designate a regular alternate to serve on the board in his or her place with the same authority as the member when he or she is unable to attend. In no event may a regular alternate serve as the permanent chair. Each member of the board, or his or her representative, shall receive from the authority compensation consistent with such authority's rates (but not to exceed one thousand dollars per year) for time spent in the performance of duties under this chapter, plus the actual and necessary expenses incurred by the member in such performance. The board may appoint a control officer, and any other personnel, and shall determine their salaries, and pay same, together with any other proper indebtedness, from authority funds.

Sec. 1088. RCW 70.94.142 and 2012 c 117 s 407 are each amended to read as follows:

In connection with the subpoena powers given in RCW 70.94.141(2) (as recodified by this act):

(1) In any hearing held under RCW 70.94.181 and 70.94.221 (as recodified by this act), the board or the department, and their authorized agents:

(a) Shall issue a subpoena upon the request of any party and, to the extent required by rule or regulation, upon a statement or showing of general relevance and reasonable scope of the evidence sought;

(b) May issue a subpoena upon their own motion.

(2) The subpoena powers given in RCW 70.94.141(2) (as recodified by this act) shall be statewide in effect.

(3) Witnesses appearing under the compulsion of a subpoena in a hearing before the board or the department shall be paid the same fees and mileage that are provided for witnesses in the courts of this state. Such fees and mileage, and the cost of duplicating records required to be produced by subpoena issued upon the motion of the board or department, shall be paid by the board or department. Such fees and mileage, and the cost of producing records required to be produced by subpoena issued upon the request of a party, shall be paid by that party.

(4) If an individual fails to obey the subpoena, or obeys the subpoena but refuses to testify when required concerning any matter under examination or investigation or the subject of the hearing, the board or department shall file its written report thereof and proof of service of its subpoena, in any court of competent jurisdiction in the county where the examination, hearing, or investigation is being conducted. Thereupon, the court shall forthwith cause the individual to be brought before it and, upon being satisfied that the subpoena is within the jurisdiction of the board or department and otherwise in accordance with law, shall punish him or her as if the failure or refusal related to a subpoena from or testimony in that court.

(5) The department may make such rules and regulations as to the issuance of its own subpoenas as are not inconsistent with the provisions of this chapter.

Sec. 1089. RCW 70.94.143 and 1987 c 109 s 36 are each amended to read as follows:

Any authority exercising the powers and duties prescribed in this chapter may make application for, receive, administer, and expend any federal aid, under federal legislation from any agency of the federal government, for the prevention and control of air pollution or the development and administration of programs related to air pollution control and prevention, as permitted by RCW 70.94.141(12) (as recodified by this act): PROVIDED, That any such application shall be submitted to and approved by the department. The department shall adopt rules and regulations establishing standards for such approval and shall approve any such application, if it is consistent with this chapter, and any other applicable requirements of law.

Sec. 1090. RCW 70.94.151 and 2010 c 146 s 2 are each amended to read as follows:

(1) The board of any activated authority or the department, may classify air contaminant sources, by ordinance, resolution, rule or regulation, which in its judgment may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which cause or contribute to air pollution, and may require registration or reporting or both for any such class or classes. Classifications made pursuant to this section may be for application to the area

of jurisdiction of such authority, or the state as a whole or to any designated area within the jurisdiction, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

(2) Except as provided in subsection (3) of this section, any person operating or responsible for the operation of air contaminant sources of any class for which the ordinances, resolutions, rules or regulations of the department or board of the authority, require registration or reporting shall register therewith and make reports containing information as may be required by such department or board concerning location, size and height of contaminant outlets, processes employed, nature of the contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled. In the case of emissions of greenhouse gases as defined in RCW 70.235.010 (as recodified by this act) the department shall adopt rules requiring reporting of those emissions. The department or board may require that such registration or reporting be accompanied by a fee, and may determine the amount of such fee for such class or classes: PROVIDED, That the amount of the fee shall only be to compensate for the costs of administering such registration or reporting program which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering or other reliable analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program: PROVIDED FURTHER, That any such registration made with either the board or the department shall preclude a further registration and reporting with any other board or the department, except that emissions of greenhouse gases as defined in RCW 70.235.010 (as recodified by this act) must be reported as required under subsection (5) of this section.

All registration program and reporting fees collected by the department shall be deposited in the air pollution control account. All registration program fees collected by the local air authorities shall be deposited in their respective treasuries.

(3) If a registration or report has been filed for a grain warehouse or grain elevator as required under this section, registration, reporting, or a registration program fee shall not, after January 1, 1997, again be required under this section for the warehouse or elevator unless the capacity of the warehouse or elevator as listed as part of the license issued for the facility has been increased since the date the registration or reporting was last made. If the capacity of the warehouse or elevator listed as part of the license is increased, any registration or reporting required for the warehouse or elevator under this section must be made by the date the warehouse or elevator receives grain from the first harvest season that occurs after the increase in its capacity is listed in the license.

This subsection does not apply to a grain warehouse or grain elevator if the warehouse or elevator handles more than ten million bushels of grain annually.

(4) For the purposes of subsection (3) of this section:

(a) A "grain warehouse" or "grain elevator" is an establishment classified in standard industrial classification (SIC) code 5153 for wholesale trade for which a license is required and includes, but is not limited to, such a licensed facility that also conducts cleaning operations for grain;

(b) A "license" is a license issued by the department of agriculture licensing a facility as a grain warehouse or grain elevator under chapter 22.09 RCW or a license issued by the federal government licensing a facility as a grain warehouse or grain elevator for purposes similar to those of licensure for the facility under chapter 22.09 RCW; and

(c) "Grain" means a grain or a pulse.

(5)(a) The department shall adopt rules requiring persons to report emissions of greenhouse gases as defined in RCW 70.235.010 (as recodified by this act) where those emissions from a single facility, source, or site, or from fossil fuels sold in Washington by a single supplier meet or exceed ten thousand metric tons of carbon dioxide equivalent annually. The department may phase in the requirement to report greenhouse gas emissions until the reporting threshold in this subsection is met, which must occur by January 1, 2012. In addition, the rules must require that:

(i) Emissions of greenhouse gases resulting from the combustion of fossil fuels be reported separately from emissions of greenhouse gases resulting from the combustion of biomass;

(ii) Reporting will start in 2010 for 2009 emissions. Each annual report must include emissions data for the preceding calendar year and must be submitted to the department by October 31st of the year in which the report is due. However, starting in 2011, a person who is required to report greenhouse gas emissions to the United States environmental protection agency under 40 C.F.R. Part 98, as adopted on September 22, 2009, must submit the report required under this section to the department concurrent with the submission to the United States environmental protection agency. Except as otherwise provided in this section, the data for emissions in Washington and any corrections thereto that are reported to the United States environmental protection agency must be the emissions data reported to the department; and

(iii) Emissions of carbon dioxide associated with the complete combustion or oxidation of liquid motor vehicle fuel, special fuel, or aircraft fuel that is sold in Washington where the annual emissions associated with that combustion or oxidation equal or exceed ten thousand metric tons be reported to the department. Each person who is required to file periodic tax reports of motor vehicle fuel sales under RCW 82.36.031 or special fuel sales under RCW 82.38.150, or each distributor of aircraft fuel required to file periodic tax reports under RCW 82.42.040 must report to the department the annual emissions of carbon dioxide from the complete combustion or oxidation of the fuels listed in those reports as sold in the state of Washington. The department shall not require suppliers to use additional data to calculate greenhouse gas emissions other than the data the suppliers report to the department of licensing. The rules may allow this information to be aggregated when reported to the department. The department and the department of licensing shall enter into an interagency agreement to ensure proprietary and confidential information is protected if the departments share reported information. Any proprietary or confidential

information exempt from disclosure when reported to the department of licensing is exempt from disclosure when shared by the department of licensing with the department under this provision.

(b)(i) Except as otherwise provided in this subsection, the rules adopted by the department under (a) of this subsection must be consistent with the regulations adopted by the United States environmental protection agency in 40 C.F.R. Part 98 on September 22, 2009.

(ii) The department may by rule include additional gases to the definition of "greenhouse gas" in RCW 70.235.010 (as recodified by this act) only if the gas has been designated as a greenhouse gas by the United States congress or by the United States environmental protection agency. Prior to including additional gases to the definition of "greenhouse gas" in RCW 70.235.010 (as recodified by this act), the department shall notify the appropriate committees of the legislature. Decisions to amend the rule to include additional gases must be made prior to December 1st of any year and the amended rule may not take effect before the end of the regular legislative session in the next year.

(iii) The department may by rule exempt persons who are required to report greenhouse gas emissions to the United States environmental protection agency and who emit less than ten thousand metric tons carbon dioxide equivalent annually.

(iv) The department must establish a methodology for persons who are not required to report under this section to voluntarily report their greenhouse gas emissions.

(c) The department shall review and if necessary update its rules whenever the United States environmental protection agency adopts final amendments to 40 C.F.R. Part 98 to ensure consistency with federal reporting requirements for emissions of greenhouse gases. However, the department shall not amend its rules in a manner that conflicts with (a) of this subsection.

(d) The department shall share any reporting information reported to it with the local air authority in which the person reporting under the rules adopted by the department operates.

(e) The fee provisions in subsection (2) of this section apply to reporting of emissions of greenhouse gases. Persons required to report under (a) of this subsection who fail to report or pay the fee required in subsection (2) of this section are subject to enforcement penalties under this chapter. The department shall enforce the reporting rule requirements unless it approves a local air authority's request to enforce the requirements for persons operating within the authority's jurisdiction. However, neither the department nor a local air authority approved under this section are authorized to assess enforcement penalties on persons required to report under (a) of this subsection until six months after the department adopts its reporting rule in 2010.

(f) The energy facility site evaluation council shall, simultaneously with the department, adopt rules that impose greenhouse gas reporting requirements in site certifications on owners or operators of a facility permitted by the energy facility site evaluation council. The greenhouse gas reporting requirements imposed by the energy facility site evaluation council must be the same as the greenhouse gas reporting requirements imposed by the department. The department shall share any information reported to it from facilities permitted by the energy facility site evaluation council with the council, including notice of a

facility that has failed to report as required. The energy facility site evaluation council shall contract with the department to monitor the reporting requirements adopted under this section.

(g) The inclusion or failure to include any person, source, classes of persons or sources, or types of emissions of greenhouse gases into the department's rules for reporting under this section does not indicate whether such a person, source, or category is appropriate for inclusion in state, regional, or national greenhouse gas reduction programs or strategies. Furthermore, aircraft fuel purchased in the state may not be considered equivalent to aircraft fuel combusted in the state.

(h)(i) The definitions in RCW 70.235.010 (as recodified by this act) apply throughout this subsection (5) unless the context clearly requires otherwise.

(ii) For the purpose of this subsection (5), the term "supplier" includes: (A) A motor vehicle fuel supplier or a motor vehicle fuel importer, as those terms are defined in RCW 82.36.010; (B) a special fuel supplier or a special fuel importer, as those terms are defined in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those terms are defined in RCW 82.42.010.

(iii) For the purpose of this subsection (5), the term "person" includes: (A) An owner or operator, as those terms are defined by the United States environmental protection agency in its mandatory greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted on September 22, 2009; and (B) a supplier.

Sec. 1091. RCW 70.94.152 and 1996 c 67 s 1 and 1996 c 29 s 1 are each reenacted and amended to read as follows:

(1) The department of ecology or board of any authority may require notice of the establishment of any proposed new sources except single-family and duplex dwellings or de minimis new sources as defined in rules adopted under subsection (11) of this section. The department of ecology or board may require such notice to be accompanied by a fee and determine the amount of such fee: PROVIDED, That the amount of the fee may not exceed the cost of reviewing the plans, specifications, and other information and administering such notice: PROVIDED FURTHER, That any such notice given or notice of construction application submitted to either the board or to the department of ecology shall preclude a further submittal of a duplicate application to any board or to the department of ecology.

(2) The department shall, after opportunity for public review and comment, adopt rules that establish a workload-driven process for determination and review of the fee covering the direct and indirect costs of processing a notice of construction application and a methodology for tracking revenues and expenditures. All new source fees collected by the delegated local air authorities from sources shall be deposited in the dedicated accounts of their respective treasuries. All new source fees collected by the department from sources shall be deposited in the air pollution control account.

(3) Within thirty days of receipt of a notice of construction application, the department of ecology or board may require, as a condition precedent to the establishment of the new source or sources covered thereby, the submission of plans, specifications, and such other information as it deems necessary to determine whether the proposed new source will be in accord with applicable rules and regulations in force under this chapter. If on the basis of plans, specifications, or other information required under this section the department of

ecology or board determines that the proposed new source will not be in accord with this chapter or the applicable ordinances, resolutions, rules, and regulations adopted under this chapter, it shall issue an order denying permission to establish the new source. If on the basis of plans, specifications, or other information required under this section, the department of ecology or board determines that the proposed new source will be in accord with this chapter, and the applicable rules and regulations adopted under this chapter, it shall issue an order of approval for the establishment of the new source or sources, which order may provide such conditions as are reasonably necessary to assure the maintenance of compliance with this chapter and the applicable rules and regulations adopted under this chapter. Every order of approval under this chapter must be reviewed prior to issuance by a professional engineer or staff under the supervision of a professional engineer in the employ of the department of ecology or board.

(4) The determination required under subsection (3) of this section shall include a determination of whether the operation of the new air contaminant source at the location proposed will cause any ambient air quality standard to be exceeded.

(5) New source review of a modification shall be limited to the emission unit or units proposed to be modified and the air contaminants whose emissions would increase as a result of the modification.

(6) Nothing in this section shall be construed to authorize the department of ecology or board to require the use of emission control equipment or other equipment, machinery, or devices of any particular type, from any particular supplier, or produced by any particular manufacturer.

(7) Any features, machines, and devices constituting parts of or called for by plans, specifications, or other information submitted pursuant to subsection (1) or (3) of this section shall be maintained and operate in good working order.

(8) The absence of an ordinance, resolution, rule, or regulation, or the failure to issue an order pursuant to this section shall not relieve any person from his or her obligation to comply with applicable emission control requirements or with any other provision of law.

(9) Within thirty days of receipt of a notice of construction application the department of ecology or board shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within sixty days of receipt of a complete application the department or board shall either (a) issue a final decision on the application, or (b) for those projects subject to public notice, initiate notice and comment on a proposed decision, followed as promptly as possible by a final decision. A person seeking approval to construct or modify a source that requires an operating permit may elect to integrate review of the operating permit application or amendment required by RCW 70.94.161 (as recodified by this act) and the notice of construction application required by this section. A notice of construction application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines.

(10) A notice of construction approval required under subsection (3) of this section shall include a determination that the new source will achieve best available control technology. If more stringent controls are required under federal law, the notice of construction shall include a determination that the new

source will achieve the more stringent federal requirements. Nothing in this subsection is intended to diminish other state authorities under this chapter.

(11) No person is required to submit a notice of construction or receive approval for a new source that is deemed by the department of ecology or board to have de minimis impact on air quality. The department of ecology shall adopt and periodically update rules identifying categories of de minimis new sources. The department of ecology may identify de minimis new sources by category, size, or emission thresholds.

(12) For purposes of this section, "de minimis new sources" means new sources with trivial levels of emissions that do not pose a threat to human health or the environment.

Sec. 1092. RCW 70.94.153 and 1991 c 199 s 303 are each amended to read as follows:

Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source emission unit shall file a notice of construction application with the jurisdictional permitting authority. For projects not otherwise reviewable under RCW 70.94.152 (as recodified by this act), the permitting authority may (1) require that the owner or operator employ reasonably available control technology for the affected emission unit and (2) may prescribe reasonable operation and maintenance conditions for the control equipment. Within thirty days of receipt of an application for notice of construction under this section the permitting authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within thirty days of receipt of a complete application the permitting authority shall either issue an order of approval or a proposed RACT determination for the proposed project. Construction shall not commence on a project subject to review under this section until the permitting authority issues a final order of approval. However, any notice of construction application filed under this section shall be deemed to be approved without conditions if the permitting authority takes no action within thirty days of receipt of a complete application for a notice of construction.

Sec. 1093. RCW 70.94.154 and 1996 c 29 s 2 are each amended to read as follows:

(1) RACT as defined in RCW 70.94.030 (as recodified by this act) is required for existing sources except as otherwise provided in RCW 70.94.331(9) (as recodified by this act).

(2) RACT for each source category containing three or more sources shall be determined by rule except as provided in subsection (3) of this section.

(3) Source-specific RACT determinations may be performed under any of the following circumstances:

(a) As authorized by RCW 70.94.153 (as recodified by this act);

(b) When required by the federal clean air act;

(c) For sources in source categories containing fewer than three sources;

(d) When an air quality problem, for which the source is a contributor, justifies a source-specific RACT determination prior to development of a categorical RACT rule; or

(e) When a source-specific RACT determination is needed to address either specific air quality problems for which the source is a significant contributor or source-specific economic concerns.

(4) By January 1, 1994, ecology shall develop a list of sources and source categories requiring RACT review and a schedule for conducting that review. Ecology shall review the list and schedule within six months of receiving the initial operating permit applications and at least once every five years thereafter. In developing the list to determine the schedule of RACT review, ecology shall consider emission reductions achievable through the use of new available technologies and the impacts of those incremental reductions on air quality, the remaining useful life of previously installed control equipment, the impact of the source or source category on air quality, the number of years since the last BACT, RACT, or LAER determination for that source and other relevant factors. Prior to finalizing the list and schedule, ecology shall consult with local air authorities, the regulated community, environmental groups, and other interested individuals and organizations. The department and local authorities shall revise RACT requirements, as needed, based on the review conducted under this subsection.

(5) In determining RACT, ecology and local authorities shall utilize the factors set forth in RCW 70.94.030 (as recodified by this act) and shall consider RACT determinations and guidance made by the federal environmental protection agency, other states and local authorities for similar sources, and other relevant factors. In establishing or revising RACT requirements, ecology and local authorities shall address, where practicable, all air contaminants deemed to be of concern for that source or source category.

(6) Emission standards and other requirements contained in rules or regulatory orders in effect at the time of operating permit issuance or renewal shall be considered RACT for purposes of permit issuance or renewal. RACT determinations under subsections (2) and (3) of this section shall be incorporated into operating permits as provided in RCW 70.94.161 (as recodified by this act) and rules implementing that section.

(7) The department and local air authorities are authorized to assess and collect a fee to cover the costs of developing, establishing, or reviewing categorical or case-by-case RACT requirements. The fee shall apply to determinations of RACT requirements as defined under this section and RCW 70.94.331(9) (as recodified by this act). The amount of the fee may not exceed the direct and indirect costs of establishing the requirement for the particular source or the pro rata portion of the direct and indirect costs of establishing the requirement for the relevant source category. The department shall, after opportunity for public review and comment, adopt rules that establish a workload-driven process for determination and review of the fee covering the direct and indirect costs of its RACT determinations and a methodology for tracking revenues and expenditures. All such RACT determination fees collected by the delegated local air authorities from sources shall be deposited in the dedicated accounts of their respective treasuries. All such RACT fees collected by the department from sources shall be deposited in the air pollution control account.

Sec. 1094. RCW 70.94.161 and 2008 c 14 s 6 are each amended to read as follows:

The department of ecology, or board of an authority, shall require renewable permits for the operation of air contaminant sources subject to the following conditions and limitations:

(1) Permits shall be issued for a term of five years. A permit may be modified or amended during its term at the request of the permittee, or for any reason allowed by the federal clean air act. The rules adopted pursuant to subsection (2) of this section shall include rules for permit amendments and modifications. The terms and conditions of a permit shall remain in effect after the permit itself expires if the permittee submits a timely and complete application for permit renewal.

(2)(a) Rules establishing the elements for a statewide operating permit program and the process for permit application and renewal consistent with federal requirements shall be established by the department by January 1, 1993. The rules shall provide that every proposed permit must be reviewed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the permitting authority. The permit program established by these rules shall be administered by the department and delegated local air authorities. Rules developed under this subsection shall not preclude a delegated local air authority from including in a permit its own more stringent emission standards and operating restrictions.

(b) The board of any local air pollution control authority may apply to the department of ecology for a delegation order authorizing the local authority to administer the operating permit program for sources under that authority's jurisdiction. The department shall, by order, approve such delegation, if the department finds that the local authority has the technical and financial resources, to discharge the responsibilities of a permitting authority under the federal clean air act. A delegation request shall include adequate information about the local authority's resources to enable the department to make the findings required by this subsection. However, any delegation order issued under this subsection shall take effect ninety days after the environmental protection agency authorizes the local authority to issue operating permits under the federal clean air act.

(c) Except for the authority granted the energy facility site evaluation council to issue permits for the new construction, reconstruction, or enlargement or operation of new energy facilities under chapter 80.50 RCW, the department may exercise the authority, as delegated by the environmental protection agency, to administer Title IV of the federal clean air act as amended and to delegate such administration to local authorities as applicable pursuant to (b) of this subsection.

(3) In establishing technical standards, defined in RCW 70.94.030 (as recodified by this act), the permitting authority shall consider and, if found to be appropriate, give credit for waste reduction within the process.

(4) Operating permits shall apply to all sources (a) where required by the federal clean air act, and (b) for any source that may cause or contribute to air pollution in such quantity as to create a threat to the public health or welfare. Subsection (b) of this subsection is not intended to apply to small businesses except when both of the following limitations are satisfied: (i) The source is in an area exceeding or threatening to exceed federal or state air quality standards; and (ii) the department provides a reasonable justification that requiring a source

to have a permit is necessary to meet a federal or state air quality standard, or to prevent exceeding a standard in an area threatening to exceed the standard. For purposes of this subsection "areas threatening to exceed air quality standards" shall mean areas projected by the department to exceed such standards within five years. Prior to identifying threatened areas the department shall hold a public hearing or hearings within the proposed areas.

(5) Sources operated by government agencies are not exempt under this section.

(6) Within one hundred eighty days after the United States environmental protection agency approves the state operating permit program, a person required to have a permit shall submit to the permitting authority a compliance plan and permit application, signed by a responsible official, certifying the accuracy of the information submitted. Until permits are issued, existing sources shall be allowed to operate under presently applicable standards and conditions provided that such sources submit complete and timely permit applications.

(7) All draft permits shall be subject to public notice and comment. The rules adopted pursuant to subsection (2) of this section shall specify procedures for public notice and comment. Such procedures shall provide the permitting agency with an opportunity to respond to comments received from interested parties prior to the time that the proposed permit is submitted to the environmental protection agency for review pursuant to section 505(a) of the federal clean air act. In the event that the environmental protection agency objects to a proposed permit pursuant to section 505(b) of the federal clean air act, the permitting authority shall not issue the permit, unless the permittee consents to the changes required by the environmental protection agency.

(8) The procedures contained in chapter 43.21B RCW shall apply to permit appeals. The pollution control hearings board may stay the effectiveness of any permit issued under this section during the pendency of an appeal filed by the permittee, if the permittee demonstrates that compliance with the permit during the pendency of the appeal would require significant expenditures that would not be necessary in the event that the permittee prevailed on the merits of the appeal.

(9) After the effective date of any permit program promulgated under this section, it shall be unlawful for any person to: (a) Operate a permitted source in violation of any requirement of a permit issued under this section; or (b) fail to submit a permit application at the time required by rules adopted under subsection (2) of this section.

(10) Each air operating permit shall state the origin of and specific legal authority for each requirement included therein. Every requirement in an operating permit shall be based upon the most stringent of the following requirements:

(a) The federal clean air act and rules implementing that act, including provision of the approved state implementation plan;

(b) This chapter and rules adopted thereunder;

(c) In permits issued by a local air pollution control authority, the requirements of any order or regulation adopted by that authority;

(d) Chapter 70.98 RCW (as recodified by this act) and rules adopted thereunder; and

(e) Chapter 80.50 RCW and rules adopted thereunder.

(11) Consistent with the provisions of the federal clean air act, the permitting authority may issue general permits covering categories of permitted sources, and temporary permits authorizing emissions from similar operations at multiple temporary locations.

(12) Permit program sources within the territorial jurisdiction of an authority delegated the operating permit program shall file their permit applications with that authority, except that permit applications for sources regulated on a statewide basis pursuant to RCW 70.94.395 (as recodified by this act) shall be filed with the department. Permit program sources outside the territorial jurisdiction of a delegated authority shall file their applications with the department. Permit program sources subject to chapter 80.50 RCW shall, irrespective of their location, file their applications with the energy facility site evaluation council.

(13) When issuing operating permits to coal-fired electric generating plants, the permitting authority shall establish requirements consistent with Title IV of the federal clean air act.

(14)(a) The department and the local air authorities are authorized to assess and to collect, and each source emitting one hundred tons or more per year of a regulated pollutant shall pay an interim assessment to fund the development of the operating permit program during fiscal year 1994.

(b) The department shall conduct a workload analysis and prepare an operating permit program development budget for fiscal year 1994. The department shall allocate among all sources emitting one hundred tons or more per year of a regulated pollutant during calendar year 1992 the costs identified in its program development budget according to a three-tiered model, with each of the three tiers being equally weighted, based upon:

- (i) The number of sources;
- (ii) The complexity of sources; and
- (iii) The size of sources, as measured by the quantity of each regulated pollutant emitted by the source.

(c) Each local authority and the department shall collect from sources under their respective jurisdictions the interim fee determined by the department and shall remit the fee to the department.

(d) Each local authority may, in addition, allocate its fiscal year 1994 operating permit program development costs among the sources under its jurisdiction emitting one hundred tons or more per year of a regulated pollutant during calendar year 1992 and may collect an interim fee from these sources. A fee assessed pursuant to this subsection (14)(d) shall be collected at the same time as the fee assessed pursuant to (c) of this subsection.

(e) The fees assessed to a source under this subsection shall be limited to the first seven thousand five hundred tons for each regulated pollutant per year.

(15)(a) The department shall determine the persons liable for the fee imposed by subsection (14) of this section, compute the fee, and provide by November 1, 1993, the identity of the fee payer with the computation of the fee to each local authority and to the department of revenue for collection. The department of revenue shall collect the fee computed by the department from the fee payers under the jurisdiction of the department. The administrative, collection, and penalty provisions of chapter 82.32 RCW shall apply to the collection of the fee by the department of revenue. The department shall provide

technical assistance to the department of revenue for decisions made by the department of revenue pursuant to RCW 82.32.160 and 82.32.170. All interim fees collected by the department of revenue on behalf of the department and all interim fees collected by local authorities on behalf of the department shall be deposited in the air operating permit account. The interim fees collected by the local air authorities to cover their permit program development costs under subsection (14)(d) of this section shall be deposited in the dedicated accounts of their respective treasuries.

(b) All fees identified in this section shall be due and payable on March 1, 1994, except that the local air pollution control authorities may adopt by rule an earlier date on which fees are to be due and payable. The section 5, chapter 252, Laws of 1993 amendments to RCW 70.94.161 (as recodified by this act) do not have the effect of terminating, or in any way modifying, any liability, civil or criminal, incurred pursuant to the provisions of RCW 70.94.161 (15) and (17) (as recodified by this act) as they existed prior to July 25, 1993.

(16) For sources or source categories not required to obtain permits under subsection (4) of this section, the department or local authority may establish by rule control technology requirements. If control technology rule revisions are made by the department or local authority under this subsection, the department or local authority shall consider the remaining useful life of control equipment previously installed on existing sources before requiring technology changes. The department or any local air authority may issue a general permit, as authorized under the federal clean air act, for such sources.

(17) Emissions of greenhouse gases as defined in RCW 70.235.010 (as recodified by this act) must be reported as required by RCW 70.94.151 (as recodified by this act). The reporting provisions of RCW 70.94.151 (as recodified by this act) shall not apply to any other emissions from any permit program source after the effective date of United States environmental protection agency approval of the state operating permit program.

Sec. 1095. RCW 70.94.162 and 2014 c 76 s 5 are each amended to read as follows:

(1) The department and delegated local air authorities are authorized to determine, assess, and collect, and each permit program source shall pay, annual fees sufficient to cover the direct and indirect costs of implementing a state operating permit program approved by the United States environmental protection agency under the federal clean air act. However, a source that receives its operating permit from the United States environmental protection agency shall not be considered a permit program source so long as the environmental protection agency continues to act as the permitting authority for that source. Each permitting authority shall develop by rule a fee schedule allocating among its permit program sources the costs of the operating permit program, and may, by rule, establish a payment schedule whereby periodic installments of the annual fee are due and payable more frequently. All operating permit program fees collected by the department shall be deposited in the air operating permit account. All operating permit program fees collected by the delegated local air authorities shall be deposited in their respective air operating permit accounts or other accounts dedicated exclusively to support of the operating permit program. The fees assessed under this subsection shall first be due not less than forty-five days after the United States environmental protection agency delegates to the

department the authority to administer the operating permit program and then annually thereafter.

The department shall establish, by rule, procedures for administrative appeals to the department regarding the fee assessed pursuant to this subsection.

(2) The fee schedule developed by each permitting authority shall fully cover and not exceed both its permit administration costs and the permitting authority's share of statewide program development and oversight costs.

(a) Permit administration costs are those incurred by each permitting authority, including the department, in administering and enforcing the operating permit program with respect to sources under its jurisdiction. Costs associated with the following activities are fee eligible as these activities relate to the operating permit program and to the sources permitted by a permitting authority, including, where applicable, sources subject to a general permit:

(i) Preapplication assistance and review of an application and proposed compliance plan for a permit, permit revision, or renewal;

(ii) Source inspections, testing, and other data-gathering activities necessary for the development of a permit, permit revision, or renewal;

(iii) Acting on an application for a permit, permit revision, or renewal, including the costs of developing an applicable requirement as part of the processing of a permit, permit revision, or renewal, preparing a draft permit and fact sheet, and preparing a final permit, but excluding the costs of developing BACT, LAER, BART, or RACT requirements for criteria and toxic air pollutants;

(iv) Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;

(v) Modeling necessary to establish permit limits or to determine compliance with permit limits;

(vi) Reviewing compliance certifications and emissions reports and conducting related compilation and reporting activities;

(vii) Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a source is complying with permit conditions;

(viii) Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;

(ix) The share attributable to permitted sources of the development and maintenance of emissions inventories;

(x) The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;

(xi) Training for permit administration and enforcement;

(xii) Fee determination, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;

(xiii) Required fiscal audits, periodic performance audits, and reporting activities;

(xiv) Tracking of time, revenues and expenditures, and accounting activities;

(xv) Administering the permit program including the costs of clerical support, supervision, and management;

(xvi) Provision of assistance to small businesses under the jurisdiction of the permitting authority as required under section 507 of the federal clean air act; and

(xvii) Other activities required by operating permit regulations issued by the United States environmental protection agency under the federal clean air act.

(b) Development and oversight costs are those incurred by the department in developing and administering the state operating permit program, and in overseeing the administration of the program by the delegated local permitting authorities. Costs associated with the following activities are fee eligible as these activities relate to the operating permit program:

(i) Review and determinations necessary for delegation of authority to administer and enforce a permit program to a local air authority under RCW 70.94.161(2) and 70.94.860 (as recodified by this act);

(ii) Conducting fiscal audits and periodic performance audits of delegated local authorities, and other oversight functions required by the operating permit program;

(iii) Administrative enforcement actions taken by the department on behalf of a permitting authority, including those actions taken by the department under RCW 70.94.785 (as recodified by this act), but excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;

(iv) Determination and assessment with respect to each permitting authority of the fees covering its share of the costs of development and oversight;

(v) Training and assistance for permit program administration and oversight, including training and assistance regarding technical, administrative, and data management issues;

(vi) Development of generally applicable regulations or guidance regarding the permit program or its implementation or enforcement;

(vii) State codification of federal rules or standards for inclusion in operating permits;

(viii) Preparation of delegation package and other activities associated with submittal of the state permit program to the United States environmental protection agency for approval, including ongoing coordination activities;

(ix) General administration and coordination of the state permit program, related support activities, and other agency indirect costs, including necessary data management and quality assurance;

(x) Required fiscal audits and periodic performance audits of the department, and reporting activities;

(xi) Tracking of time, revenues and expenditures, and accounting activities;

(xii) Public education and outreach related to the operating permit program, including the maintenance of a permit register;

(xiii) The share attributable to permitted sources of compiling and maintaining emissions inventories;

(xiv) The share attributable to permitted sources of ambient air quality monitoring, related technical support, and associated recording activities;

(xv) The share attributable to permitted sources of modeling activities;

(xvi) Provision of assistance to small business as required under section 507 of the federal clean air act as it exists on July 25, 1993, or its later enactment as adopted by reference by the director by rule;

(xvii) Provision of services by the department of revenue and the office of the state attorney general and other state agencies in support of permit program administration;

(xviii) A one-time revision to the state implementation plan to make those administrative changes necessary to ensure coordination of the state implementation plan and the operating permit program; and

(xix) Other activities required by operating permit regulations issued by the United States environmental protection agency under the federal clean air act.

(3) The responsibility for operating permit fee determination, assessment, and collection is to be shared by the department and delegated local air authorities as follows:

(a) Each permitting authority, including the department, acting in its capacity as a permitting authority, shall develop a fee schedule and mechanism for collecting fees from the permit program sources under its jurisdiction; the fees collected by each authority shall be sufficient to cover its costs of permit administration and its share of the department's costs of development and oversight. Each delegated local authority shall remit to the department its share of the department's development and oversight costs.

(b) Only those local air authorities to whom the department has delegated the authority to administer the program pursuant to RCW 70.94.161(2) (b) and (c) and 70.94.860 (as recodified by this act) shall have the authority to administer and collect operating permit fees. The department shall retain the authority to administer and collect such fees with respect to the sources within the jurisdiction of a local air authority until the effective date of program delegation to that air authority.

(c) The department shall allocate its development and oversight costs among all permitting authorities, including the department, in proportion to the number of permit program sources under the jurisdiction of each authority, except that extraordinary costs or other costs readily attributable to a specific permitting authority may be assessed that authority. For purposes of this subsection, all sources covered by a single general permit shall be treated as one source.

(4) The department and each delegated local air authority shall adopt by rule a general permit fee schedule for sources under their respective jurisdictions after such time as the department adopts provisions for general permit issuance. Within ninety days of the time that the department adopts a general permit fee schedule, the department shall report to the relevant standing committees of the legislature regarding the general permit fee schedules adopted by the department and by the delegated local air authorities. The permit administration costs of each general permit shall be allocated equitably among only those sources subject to that general permit. The share of development and oversight costs attributable to each general permit shall be determined pursuant to subsection (3)(c) of this section.

(5) The fee schedule developed by the department shall allocate among the sources for whom the department acts as a permitting authority, other than sources subject to a general permit, those portions of the department's permit

administration costs and the department's share of the development and oversight costs which the department does not plan to recover under its general permit fee schedule or schedules as follows:

(a) The department shall allocate its permit administration costs and its share of the development and oversight costs not recovered through general permit fees according to a three-tiered model based upon:

- (i) The number of permit program sources under its jurisdiction;
- (ii) The complexity of permit program sources under its jurisdiction; and
- (iii) The size of permit program sources under its jurisdiction, as measured by the quantity of each regulated pollutant emitted by the source.

(b) Each of the three tiers shall be equally weighted.

(c) The department may, in addition, allocate activities-based costs readily attributable to a specific source to that source under RCW 70.94.152(1) and 70.94.154(7) (as recodified by this act).

The quantity of each regulated pollutant emitted by a source shall be determined based on the annual emissions during the most recent calendar year for which data is available.

(6) The department shall, after opportunity for public review and comment, adopt rules that establish a process for development and review of its operating permit program fee schedule, a methodology for tracking program revenues and expenditures, and, for both the department and the delegated local air authorities, a system of fiscal audits, reports, and periodic performance audits.

(a) The fee schedule development and review process shall include the following:

(i) The department shall conduct a biennial workload analysis. The department shall provide the opportunity for public review of and comment on the workload analysis. The department shall review and update its workload analysis during each biennial budget cycle, taking into account information gathered by tracking previous revenues, time, and expenditures and other information obtained through fiscal audits and performance audits.

(ii) The department shall prepare a biennial budget based upon the resource requirements identified in the workload analysis for that biennium. In preparing the budget, the department shall take into account the projected operating permit account balance at the start of the biennium. The department shall provide the opportunity for public review of and comment on the proposed budget. The department shall review and update its budget each biennium.

(iii) The department shall develop a fee schedule allocating the department's permit administration costs and its share of the development and oversight costs among the department's permit program sources using the methodology described in subsection (5) of this section. The department shall provide the opportunity for public review of and comment on the allocation methodology and fee schedule. The department shall provide procedures for administrative resolution of disputes regarding the source data on which allocation determinations are based; these procedures shall be designed such that resolution occurs prior to the completion of the allocation process. The department shall review and update its fee schedule annually.

(b) The methodology for tracking revenues and expenditures shall include the following:

(i) The department shall develop a system for tracking revenues and expenditures that provides the maximum practicable information. At a minimum, revenues from fees collected under the operating permit program shall be tracked on a source-specific basis and time and expenditures required to administer the program shall be tracked on the basis of source categories and functional categories. Each general permit will be treated as a separate source category for tracking and accounting purposes.

(ii) The department shall use the information obtained from tracking revenues, time, and expenditures to modify the workload analysis required in subsection (6)(a) of this section.

(iii) The information obtained from tracking revenues, time, and expenditures shall not provide a basis for challenge to the amount of an individual source's fee.

(c) The system of fiscal audits, reports, and periodic performance audits shall include the following:

(i) The department and the delegated local air authorities shall periodically report information about the air operating permit program on the department's web site.

(ii) The department shall arrange for fiscal audits and routine performance audits and for periodic intensive performance audits of each permitting authority and of the department.

(7) Each local air authority requesting delegation shall, after opportunity for public review and comment, publish regulations which establish a process for development and review of its operating permit program fee schedule, and a methodology for tracking its revenues and expenditures. These regulations shall be submitted to the department for review and approval as part of the local authority's delegation request.

(8) As used in this section and in RCW 70.94.161(14) (as recodified by this act), "regulated pollutant" shall have the same meaning as defined in section 502(b) of the federal clean air act as it exists on July 25, 1993, or its later enactment as adopted by reference by the director by rule.

(9) Fee structures as authorized under this section shall remain in effect until such time as the legislature authorizes an alternative structure following receipt of the report required by this subsection.

Sec. 1096. RCW 70.94.163 and 1991 c 199 s 304 are each amended to read as follows:

The department shall prepare recommendations to reduce air emissions for source categories not generally required to have a permit under RCW 70.94.161 (as recodified by this act). Such recommendations shall not require any action by the owner or operator of a source and shall be consistent with rules adopted under chapter 70.95C RCW (as recodified by this act). The recommendations shall include but not be limited to: Process changes, product substitution, equipment modifications, hazardous substance use reduction, recycling, and energy efficiency.

Sec. 1097. RCW 70.94.165 and 1996 c 294 s 1 are each amended to read as follows:

(1) A gasoline vapor recovery device that captures vapors during vehicle fueling may only be required at a service station, or any other gasoline

dispensing facility supplying fuel to the general public, in any of the following circumstances:

(a) The facility sells in excess of six hundred thousand gallons of gasoline per year and is located in a county, any part of which is designated as nonattainment for ozone under the federal clean air act, 42 U.S.C. Sec. 7407; or

(b) The facility sells in excess of six hundred thousand gallons of gasoline per year and is located in a county where a maintenance plan has been adopted by a local air pollution control authority or the department of ecology that includes gasoline vapor recovery devices as a control strategy; or

(c) From March 30, 1996, until December 31, 1998, in any facility that sells in excess of one million two hundred thousand gallons of gasoline per year and is located in an ozone-contributing county. For purposes of this section, an ozone-contributing county means a county in which the emissions have contributed to the formation of ozone in any county where violations of federal ozone standards have been measured, and includes: Cowlitz, Island, Kitsap, Lewis, Skagit, Thurston, Wahkiakum, and Whatcom counties; or

(d) After December 31, 1998, in any facility that sells in excess of eight hundred forty thousand gallons of gasoline per year and is located in any county, no part of which is designated as nonattainment for ozone under the federal clean air act, 42 U.S.C. Sec. 7407, provided that the department of ecology determines by December 31, 1997, that the use of gasoline vapor control devices in the county is important to achieving or maintaining attainment status in any other county.

(2) This section does not preclude the department of ecology or any local air pollution authority from requiring a gasoline vapor recovery device that captures vapors during vehicle refueling as part of the regulation of sources as provided in RCW 70.94.152, 70.94.331, or 70.94.141 (as recodified by this act) or where required under 42 U.S.C. Sec. 7412.

Sec. 1098. RCW 70.94.181 and 1991 c 199 s 306 are each amended to read as follows:

(1) Any person who owns or is in control of any plant, building, structure, establishment, process or equipment may apply to the department of ecology or appropriate local authority board for a variance from rules or regulations governing the quality, nature, duration or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the department of ecology or board may require. The department of ecology or board may grant such variance, provided that variances to state rules shall require the department's approval prior to being issued by a local authority board. The total time period for a variance and renewal of such variance shall not exceed one year. Variances may be issued by either the department or a local board but only after public hearing or due notice, if the department or board finds that:

(a) The emissions occurring or proposed to occur do not endanger public health or safety or the environment; and

(b) Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(2) No variance shall be granted pursuant to this section until the department of ecology or board has considered the relative interests of the applicant, other

owners of property likely to be affected by the discharges, and the general public.

(3) Any variance or renewal thereof shall be granted within the requirements of subsection (1) of this section and under conditions consistent with the reasons therefor, and within the following limitations:

(a) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measures that the department of ecology or board may prescribe.

(b) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the department of ecology or board is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

(c) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in (a) and (b) of this subsection, it shall be for not more than one year.

(4) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the department of ecology or board on account of the variance, no renewal thereof shall be granted unless following a public hearing on the complaint on due notice the department or board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the department of ecology or board shall give public notice of such application in accordance with rules of the department of ecology or board.

(5) A variance or renewal shall not be a right of the applicant or holder thereof but shall be granted at the discretion of the department of ecology or board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the department of ecology or board may obtain judicial review thereof under the provisions of chapter 34.05 RCW as now or hereafter amended.

(6) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 70.94.710 through 70.94.730 (as recodified by this act) to any person or his or her property.

(7) An application for a variance, or for the renewal thereof, submitted to the department of ecology or board pursuant to this section shall be approved or disapproved by the department or board within sixty-five days of receipt unless the applicant and the department of ecology or board agree to a continuance.

(8) Variances approved under this section shall not be included in orders or permits provided for in RCW 70.94.161 or 70.94.152 (as recodified by this act)

until such time as the variance has been accepted by the United States environmental protection agency as part of an approved state implementation plan.

Sec. 1099. RCW 70.94.211 and 1991 c 199 s 309 are each amended to read as follows:

At least thirty days prior to the commencement of any formal enforcement action under RCW 70.94.430 or 70.94.431 (as recodified by this act) a local air authority shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this chapter or the rule or regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order directing that necessary corrective action be taken within a reasonable time. In lieu of an order, the board or the control officer may require that the alleged violator or violators appear before the board for a hearing. Every notice of violation shall offer to the alleged violator an opportunity to meet with the local air authority prior to the commencement of enforcement action.

Sec. 1100. RCW 70.94.231 and 1991 c 199 s 708 are each amended to read as follows:

Upon the date that an authority begins to exercise its powers and functions, all rules and regulations in force on such date shall remain in effect until superseded by the rules and regulations of the authority as provided in RCW 70.94.230 (as recodified by this act).

Sec. 1101. RCW 70.94.262 and 1991 c 125 s 2 are each amended to read as follows:

(1) Any county that is part of a multicounty authority, pursuant to RCW 70.94.053 (as recodified by this act), may withdraw from the multicounty authority after January 1, 1992, if the county wishes to provide for air quality protection and regulation by an alternate air quality authority. A withdrawing county shall:

- (a) Create its own single county authority;
- (b) Join another existing multicounty authority with which its boundaries are contiguous;
- (c) Join with one or more contiguous inactive authorities to operate as a new multicounty authority; or
- (d) Become an inactive authority and subject to regulation by the department of ecology.

(2) In order to withdraw from an existing multicounty authority, a county shall make arrangements, by interlocal agreement, for division of assets and liabilities and the appropriate release of any and all interest in assets of the multicounty authority.

(3) In order to effectuate any of the alternate arrangements in subsection (1) of this section, the procedures of this chapter to create an air pollution control authority shall be met and the actions must be taken at least six months prior to the effective date of withdrawal. The rules of the original multicounty authority shall continue in force for the withdrawing county until such time as all conditions to create an air pollution control authority have been met.

(4) At the effective date of a county's withdrawal, the remaining counties shall reorganize and reconstitute the legislative authority pursuant to this

chapter. The air pollution control regulations of the existing multicounty authority shall remain in force and effect after the reorganization.

(5) If a county elects to withdraw from an existing multicounty authority, the air pollution control regulations shall remain in effect for the withdrawing county until suspended by the adoption of rules, regulations, or ordinances adopted under one of the alternatives of subsection (1) of this section. A county shall initiate proceedings to adopt such rules, regulations, or ordinances on or before the effective date of the county's withdrawal.

Sec. 1102. RCW 70.94.302 and 2012 c 238 s 1 are each amended to read as follows:

(1) A generator operating at an electric generating project with an installed generator capacity of at least seven hundred fifty kilowatts but not exceeding one thousand kilowatts, that is in operation on June 7, 2012, and began operating after 2008, and that is located on agricultural lands of long-term commercial significance pursuant to chapter 36.70A RCW, is granted an extended compliance period for permit provisions related to the emissions limit for sulfur established by the department or a local air authority until December 31, 2016, if it is fueled by biogas that is produced by an anaerobic digester that qualifies for the solid waste permitting exemption specified in RCW 70.95.330 (as recodified by this act).

(2) A generator that meets the requirements in subsection (1) of this section may not be located in a federally designated nonattainment or maintenance area.

(3) Upon request, the department or a local air authority must provide technical assistance to a generator meeting the requirements in subsection (1) of this section to assist the generator in reducing its emissions in order to meet the requirements in this chapter.

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

(a) "Anaerobic digester" means a vessel that processes organic material into biogas and digestate using microorganisms in a decomposition process within a closed, oxygen-free container.

(b) "Generator" means an internal combustion engine that converts biogas into electricity, and includes any backup combustion device to burn biogas when an engine is idled for maintenance.

Sec. 1103. RCW 70.94.331 and 1991 c 199 s 710 are each amended to read as follows:

(1) The department shall have all the powers as provided in RCW 70.94.141 (as recodified by this act).

(2) The department, in addition to any other powers vested in it by law after consideration at a public hearing held in accordance with chapters 42.30 and 34.05 RCW shall:

(a) Adopt rules establishing air quality objectives and air quality standards;

(b) Adopt emission standards which shall constitute minimum emission standards throughout the state. An authority may enact more stringent emission standards, except for emission performance standards for new woodstoves and opacity levels for residential solid fuel burning devices which shall be statewide, but in no event may less stringent standards be enacted by an authority without

the prior approval of the department after public hearing and due notice to interested parties;

(c) Adopt by rule air quality standards and emission standards for the control or prohibition of emissions to the outdoor atmosphere of radionuclides, dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof. Such requirements may be based upon a system of classification by types of emissions or types of sources of emissions, or combinations thereof, which it determines most feasible for the purposes of this chapter. However, an industry, or the air pollution control authority having jurisdiction, can choose, subject to the submittal of appropriate data that the industry has quantified, to have any limit on the opacity of emissions from a source whose emission standard is stated in terms of a weight of particulate per unit volume of air (e.g., grains per dry standard cubic foot) be based on the applicable particulate emission standard for that source, such that any violation of the opacity limit accurately indicates a violation of the applicable particulate emission standard. Any alternative opacity limit provided by this section that would result in increasing air contaminants emissions in any nonattainment area shall only be granted if equal or greater emission reductions are provided for by the same source obtaining the revised opacity limit. A reasonable fee may be assessed to the industry to which the alternate opacity standard would apply. The fee shall cover only those costs to the air pollution control authority which are directly related to the determination on the acceptability of the alternate opacity standard, including testing, oversight and review of data.

(3) The air quality standards and emission standards may be for the state as a whole or may vary from area to area or source to source, except that emission performance standards for new woodstoves and opacity levels for residential solid fuel burning devices shall be statewide, as may be appropriate to facilitate the accomplishment of the objectives of this chapter and to take necessary or desirable account of varying local conditions of population concentration, the existence of actual or reasonably foreseeable air pollution, topographic and meteorologic conditions and other pertinent variables.

(4) The department is directed to cooperate with the appropriate agencies of the United States or other states or any interstate agencies or international agencies with respect to the control of air pollution and air contamination, or for the formulation for the submission to the legislature of interstate air pollution control compacts or agreements.

(5) The department is directed to conduct or cause to be conducted a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants and conduct or cause to be conducted a program to determine the quantity of emissions to the atmosphere.

(6) The department shall enforce the air quality standards and emission standards throughout the state except where a local authority is enforcing the state regulations or its own regulations which are more stringent than those of the state.

(7) The department shall encourage local units of government to handle air pollution problems within their respective jurisdictions; and, on a cooperative basis provide technical and consultative assistance therefor.

(8) The department shall have the power to require the addition to or deletion of a county or counties from an existing authority in order to carry out the purposes of this chapter. No such addition or deletion shall be made without the concurrence of any existing authority involved. Such action shall only be taken after a public hearing held pursuant to the provisions of chapter 34.05 RCW.

(9) The department shall establish rules requiring sources or source categories to apply reasonable and available control methods. Such rules shall apply to those sources or source categories that individually or collectively contribute the majority of statewide air emissions of each regulated pollutant. The department shall review, and if necessary, update its rules every five years to ensure consistency with current reasonable and available control methods. The department shall have adopted rules required under this subsection for all sources by July 1, 1996.

For the purposes of this section, "reasonable and available control methods" shall include but not be limited to, changes in technology, processes, or other control strategies.

Sec. 1104. RCW 70.94.332 and 1991 c 199 s 711 are each amended to read as follows:

At least thirty days prior to the commencement of any formal enforcement action under RCW 70.94.430 and 70.94.431 (as recodified by this act), the department of ecology shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this chapter or the rule or regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the department may require that the alleged violator or violators appear before it for the purpose of providing the department information pertaining to the violation or the charges complained of. Every notice of violation shall offer to the alleged violator an opportunity to meet with the department prior to the commencement of enforcement action.

Sec. 1105. RCW 70.94.335 and 1994 c 257 s 15 are each amended to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW (as recodified by this act), or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW (as recodified by this act). The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW (as recodified by this act), or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090 (as recodified by this act).

Sec. 1106. RCW 70.94.385 and 1991 c 199 s 712 are each amended to read as follows:

(1) Any authority may apply to the department for state financial aid. The department shall annually establish the amount of state funds available for the local authorities taking into consideration available federal and state funds. The establishment of funding amounts shall be consistent with federal requirements

and local maintenance of effort necessary to carry out the provisions of this chapter. Any such aid shall be expended from the general fund or from other appropriations as the legislature may provide for this purpose: PROVIDED, That federal funds shall be utilized to the maximum unless otherwise approved by the department: PROVIDED FURTHER, That the amount of state funds provided to local authorities during the previous year shall not be reduced without a public notice or public hearing held by the department if requested by the affected local authority, unless such changes are the direct result of a reduction in the available federal funds for air pollution control programs.

(2) Before any such application is approved and financial aid is given or approved by the department, the authority shall demonstrate to the satisfaction of the department that it is fulfilling the requirements of this chapter. If the department has not adopted ambient air quality standards and objectives as permitted by RCW 70.94.331 (as recodified by this act), the authority shall demonstrate to the satisfaction of the department that it is acting in good faith and doing all that is possible and reasonable to control and prevent air pollution within its jurisdictional boundaries and to carry out the purposes of this chapter.

(3) The department shall adopt rules requiring the submission of such information by each authority including the submission of its proposed budget and a description of its program in support of the application for state financial aid as necessary to enable the department to determine the need for state aid.

Sec. 1107. RCW 70.94.390 and 2012 c 117 s 408 are each amended to read as follows:

The department may, at any time and on its own motion, hold a hearing to determine if the activation of an authority is necessary for the prevention, abatement, and control of air pollution which exists or is likely to exist in any area of the state. Notice of such hearing shall be conducted in accordance with chapter 42.30 RCW and chapter 34.05 RCW. If at such hearing the department finds that air pollution exists or is likely to occur in a particular area, and that the purposes of this chapter and the public interest will be best served by the activation of an authority it shall designate the boundaries of such area and set forth in a report to the appropriate county or counties recommendations for the activation of an authority: PROVIDED, That if at such hearing the department determines that the activation of an authority is not practical or feasible for the reason that a local or regional air pollution control program cannot be successfully established or operated due to unusual circumstances and conditions, but that the control and/or prevention of air pollution is necessary for the purposes of this chapter and the public interest, it may assume jurisdiction and so declare by order. Such order shall designate the geographic area in which, and the effective date upon which, the department will exercise jurisdiction for the control and/or prevention of air pollution. The department shall exercise its powers and duties in the same manner as if it had assumed authority under RCW 70.94.410 (as recodified by this act).

All expenses incurred by the department in the control and prevention of air pollution in any county pursuant to the provisions of RCW 70.94.390 and 70.94.410 (as recodified by this act) shall constitute a claim against such county. The department shall certify the expenses to the auditor of the county, who promptly shall issue his or her warrant on the county treasurer payable out of the current expense fund of the county. In the event that the amount in the current

expense fund of the county is not adequate to meet the expenses incurred by the department, the department shall certify to the state treasurer that it has a prior claim on any money in the "liquor excise tax fund" that is to be apportioned to that county by the state treasurer as provided in RCW 82.08.170. In the event that the amount in the "liquor excise tax fund" that is to be apportioned to that county by the state treasurer is not adequate to meet the expenses incurred by the department, the department shall certify to the state treasurer that they have a prior claim on any excess funds from the liquor revolving fund that are to be distributed to that county as provided in RCW 66.08.190 through 66.08.220. All moneys that are collected as provided in this section shall be placed in the general fund in the account of the office of air programs of the department.

Sec. 1108. RCW 70.94.400 and 1987 c 109 s 44 are each amended to read as follows:

If, at the end of ninety days after the department issues a report as provided for in RCW 70.94.390 (as recodified by this act), to appropriate county or counties recommending the activation of an authority such county or counties have not performed those actions recommended by the department, and the department is still of the opinion that the activation of an authority is necessary for the prevention, abatement and control of air pollution which exists or is likely to exist, then the department may, at its discretion, issue an order activating an authority. Such order, a certified copy of which shall be filed with the secretary of state, shall specify the participating county or counties and the effective date by which the authority shall begin to function and exercise its powers. Any authority activated by order of the department shall choose the members of its board as provided in RCW 70.94.100 (as recodified by this act) and begin to function in the same manner as if it had been activated by resolutions of the county or counties included within its boundaries. The department may, upon due notice to all interested parties, conduct a hearing in accordance with chapter 42.30 RCW and chapter 34.05 RCW within six months after the order was issued to review such order and to ascertain if such order is being carried out in good faith. At such time the department may amend any such order issued if it is determined by the department that such order is being carried out in bad faith or the department may take the appropriate action as is provided in RCW 70.94.410 (as recodified by this act).

Sec. 1109. RCW 70.94.410 and 1991 c 199 s 715 are each amended to read as follows:

(1) If, after thirty days from the time that the department issues a report or order to an authority under RCW 70.94.400 and 70.94.405 (as recodified by this act), such authority has not taken action which indicates that it is attempting in good faith to implement the recommendations or actions of the department as set forth in the report or order, the department may, by order, declare as null and void any or all ordinances, resolutions, rules or regulations of such authority relating to the control and/or prevention of air pollution, and at such time the department shall become the sole body with authority to make and enforce rules and regulations for the control and/or prevention of air pollution within the geographical area of such authority. If this occurs, the department may assume all those powers which are given to it by law to effectuate the purposes of this chapter. The department may, by order, continue in effect and enforce provisions

of the ordinances, resolutions, or rules of such authority which are not less stringent than those requirements which the department may have found applicable to the area under RCW 70.94.331 (as recodified by this act), until such time as the department adopts its own rules. Any rules promulgated by the department shall be subject to the provisions of chapter 34.05 RCW. Any enforcement actions shall be subject to RCW 43.21B.300 or 43.21B.310.

(2) No provision of this chapter is intended to prohibit any authority from reestablishing its air pollution control program which meets with the approval of the department and which complies with the purposes of this chapter and with applicable rules and orders of the department.

(3) Nothing in this chapter shall prevent the department from withdrawing the exercise of its jurisdiction over an authority upon its own motion if the department has found at a hearing held in accordance with chapters 42.30 and 34.05 RCW, that the air pollution prevention and control program of such authority will be carried out in good faith, that such program will do all that is possible and reasonable to control and/or prevent air pollution within the geographical area over which it has jurisdiction, and that the program complies with the provisions of this chapter. Upon the withdrawal of the department, the department shall prescribe certain recommendations as to how air pollution prevention and/or control is to be effectively accomplished and guidelines which will assist the authority in carrying out the recommendations of the department.

Sec. 1110. RCW 70.94.422 and 1993 c 252 s 7 are each amended to read as follows:

(1) The department of health shall have all the enforcement powers as provided in RCW 70.94.332, 70.94.425, 70.94.430, 70.94.431 (1) through (7), and 70.94.435 (as recodified by this act) with respect to emissions of radionuclides. This section does not preclude the department of ecology from exercising its authority under this chapter.

(2) Permits for energy facilities subject to chapter 80.50 RCW shall be issued by the energy facility site evaluation council. However, the permits become effective only if the governor approves an application for certification and executes a certification agreement under chapter 80.50 RCW. The council shall have all powers necessary to administer an operating permits program pertaining to such facilities, consistent with applicable air quality standards established by the department or local air pollution control authorities, or both, and to obtain the approval of the United States environmental protection agency. The council's powers include, but are not limited to, all of the enforcement powers provided in RCW 70.94.332, 70.94.425, 70.94.430, 70.94.431 (1) through (7), and 70.94.435 (as recodified by this act) with respect to permit program sources required to obtain certification from the council under chapter 80.50 RCW. To the extent not covered under RCW 80.50.071, the council may collect fees as granted to delegated local air authorities under RCW 70.94.152, 70.94.161 (14) and (15), 70.94.162, and 70.94.154(7) (as recodified by this act) with respect to permit program sources required to obtain certification from the council under chapter 80.50 RCW. The council and the department shall each establish procedures that provide maximum coordination and avoid duplication between the two agencies in carrying out the requirements of this chapter.

Sec. 1111. RCW 70.94.430 and 2019 c 284 s 4 are each amended to read as follows:

(1) Any person who knowingly violates any of the provisions of this chapter ((70.94)) or chapter 70.120 RCW (as recodified by this act), RCW 70.235.080 (as recodified by this act), or any ordinance, resolution, or regulation in force pursuant thereto is guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for up to three hundred sixty-four days, or by both for each separate violation.

(2) Any person who negligently releases into the ambient air any substance listed by the department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a gross misdemeanor and shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment for up to three hundred sixty-four days, or both.

(3) Any person who knowingly releases into the ambient air any substance listed by the department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a class C felony and shall, upon conviction, be punished by a fine of not less than fifty thousand dollars, or by imprisonment for not more than five years, or both.

(4) Any person who knowingly fails to disclose a potential conflict of interest under RCW 70.94.100 (as recodified by this act) is guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars.

Sec. 1112. RCW 70.94.431 and 2019 c 284 s 5 are each amended to read as follows:

(1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, and in addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of this chapter, chapter 70.120 or 70.310 RCW (as recodified by this act), RCW 70.235.080 (as recodified by this act), or any of the rules in force under such chapters or section may incur a civil penalty in an amount not to exceed ten thousand dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

(b) Any person who fails to take action as specified by an order issued pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars for each day of continued noncompliance.

(2)(a) Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

(b) The maximum penalty amounts established in this section may be increased annually to account for inflation as determined by the state office of the economic and revenue forecast council.

(3) Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.21B.300.

(4) All penalties recovered under this section by the department shall be paid into the state treasury and credited to the air pollution control account established in RCW 70.94.015 (as recodified by this act) or, if recovered by the authority, shall be paid into the treasury of the authority and credited to its funds. If a prior penalty for the same violation has been paid to a local authority, the penalty imposed by the department under subsection (1) of this section shall be reduced by the amount of the payment.

(5) To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW 60.36.050.

(6) Public or private entities that are recipients or potential recipients of department grants, whether for air quality related activities or not, may have such grants rescinded or withheld by the department for failure to comply with provisions of this chapter.

(7) In addition to other penalties provided by this chapter, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.

(8) The department shall develop rules for excusing excess emissions from enforcement action if such excess emissions are unavoidable. The rules shall specify the criteria and procedures for the department and local air authorities to determine whether a period of excess emissions is excusable in accordance with the state implementation plan.

Sec. 1113. RCW 70.94.435 and 1967 c 238 s 62 are each amended to read as follows:

As an additional means of enforcing this chapter, the governing body or board may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter or of any ordinance, resolution, rule or regulation adopted pursuant hereto, from any person engaging in, or who has engaged in, such act or practice. Any such assurance shall specify a time limit during which such discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter or the ordinances, resolutions, rules or regulations, or order issued pursuant thereto, which make the alleged act or practice unlawful for the purpose of securing any injunction or other relief from the superior court as provided in RCW 70.94.425 (as recodified by this act).

Sec. 1114. RCW 70.94.450 and 1987 c 405 s 1 are each amended to read as follows:

In the interest of the public health and welfare and in keeping with the objectives of RCW 70.94.011 (as recodified by this act), the legislature declares it to be the public policy of the state to control, reduce, and prevent air pollution caused by woodstove emissions. It is the state's policy to reduce woodstove emissions by encouraging the department of ecology to continue efforts to

educate the public about the effects of woodstove emissions, other heating alternatives, and the desirability of achieving better emission performance and heating efficiency from woodstoves. The legislature further declares that: (1) The purchase of certified woodstoves will not solve the problem of pollution caused by woodstove emissions; and (2) the reduction of air pollution caused by woodstove emissions will only occur when woodstove users adopt proper methods of wood burning.

Sec. 1115. RCW 70.94.453 and 1987 c 405 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 70.94.453 through ((70.94.487)) 70.94.483 (as recodified by this act):

(1) "Department" means the department of ecology.

(2) "Woodstove" means a solid fuel burning device other than a fireplace not meeting the requirements of RCW 70.94.457 (as recodified by this act), including any fireplace insert, woodstove, wood burning heater, wood stick boiler, coal-fired furnace, coal stove, or similar device burning any solid fuel used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one million British thermal units per hour. The term "woodstove" does not include wood cook stoves.

(3) "Fireplace" means: (a) Any permanently installed masonry fireplace; or (b) any factory-built metal solid fuel burning device designed to be used with an open combustion chamber and without features to control the air to fuel ratio.

(4) "New woodstove" means: (a) A woodstove that is sold at retail, bargained, exchanged, or given away for the first time by the manufacturer, the manufacturer's dealer or agency, or a retailer; and (b) has not been so used to have become what is commonly known as "secondhand" within the ordinary meaning of that term.

(5) "Solid fuel burning device" means any device for burning wood, coal, or any other nongaseous and nonliquid fuel, including a woodstove and fireplace.

(6) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(7) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage. The methods approved by the department in accordance with RCW 70.94.331 (as recodified by this act) shall be used to establish opacity for the purposes of this chapter.

Sec. 1116. RCW 70.94.460 and 1995 c 205 s 4 are each amended to read as follows:

After July 1, 1988, no person shall sell, offer to sell, or knowingly advertise to sell a new woodstove in this state to a resident of this state unless the woodstove has been approved by the department under the program established under RCW 70.94.457 (as recodified by this act).

Sec. 1117. RCW 70.94.463 and 1987 c 405 s 8 are each amended to read as follows:

After July 1, 1988, any person who sells, offers to sell, or knowingly advertises to sell a new woodstove in this state in violation of RCW 70.94.460 (as recodified by this act) shall be subject to the penalties and enforcement actions under this chapter.

Sec. 1118. RCW 70.94.467 and 1987 c 405 s 12 are each amended to read as follows:

Nothing in RCW 70.94.460 or 70.94.463 (as recodified by this act) shall apply to a radio station, television station, publisher, printer, or distributor of a newspaper, magazine, billboard, or other advertising medium that accepts advertising in good faith and without knowledge of its violation of RCW 70.94.453 through (~~70.94.487~~) 70.94.483 (as recodified by this act).

Sec. 1119. RCW 70.94.473 and 2016 c 187 s 1 are each amended to read as follows:

(1) Any person in a residence or commercial establishment which has an adequate source of heat without burning wood shall:

(a) Not burn wood in any solid fuel burning device whenever the department has determined under RCW 70.94.715 (as recodified by this act) that any air pollution episode exists in that area;

(b) Not burn wood in any solid fuel burning device except those which are either Oregon department of environmental quality phase II or United States environmental protection agency certified or certified by the department under RCW 70.94.457(1) (as recodified by this act) or a pellet stove either certified or issued an exemption by the United States environmental protection agency in accordance with Title 40, Part 60 of the Code of Federal Regulations, in the geographical area and for the period of time that a first stage of impaired air quality has been determined, by the department or any authority, for that area.

(i) A first stage of impaired air quality is reached when forecasted meteorological conditions are predicted to cause fine particulate levels to exceed thirty-five micrograms per cubic meter, measured on a twenty-four hour average, within forty-eight hours, except for areas of fine particulate nonattainment or areas at risk for fine particulate nonattainment;

(ii) A first stage burn ban for impaired air quality may be called for a county containing fine particulate nonattainment areas or areas at risk for fine particulate nonattainment, and when feasible only for the necessary portions of the county, when forecasted meteorological conditions are predicted to cause fine particulate levels to reach or exceed thirty micrograms per cubic meter, measured on a twenty-four hour average, within seventy-two hours; and

(c)(i) Not burn wood in any solid fuel burning device in a geographical area and for the period of time that a second stage of impaired air quality has been determined by the department or any authority, for that area. A second stage of impaired air quality is reached when a first stage of impaired air quality has been in force and has not been sufficient to reduce the increasing fine particulate pollution trend, fine particulates are at an ambient level of twenty-five micrograms per cubic meter measured on a twenty-four hour average, and forecasted meteorological conditions are not expected to allow levels of fine particulates to decline below twenty-five micrograms per cubic meter for a period of twenty-four hours or more from the time that the fine particulates are measured at the trigger level.

(ii) A second stage burn ban may be called without calling a first stage burn ban only when all of the following occur and shall require the department or the local air pollution control authority calling a second stage burn ban under this subsection to comply with the requirements of subsection (3) of this section:

(A) Fine particulate levels have reached or exceeded twenty-five micrograms per cubic meter, measured on a twenty-four hour average;

(B) Meteorological conditions have caused fine particulate levels to rise rapidly;

(C) Meteorological conditions are predicted to cause fine particulate levels to exceed the thirty-five micrograms per cubic meter, measured on a twenty-four hour average, within twenty-four hours; and

(D) Meteorological conditions are highly likely to prevent sufficient dispersion of fine particulate.

(iii) In fine particulate nonattainment areas or areas at risk for fine particulate nonattainment, a second stage burn ban may be called for the county containing the nonattainment area or areas at risk for nonattainment, and when feasible only for the necessary portions of the county, without calling a first stage burn ban only when (c)(ii)(A), (B), and (D) of this subsection have been met and meteorological conditions are predicted to cause fine particulate levels to reach or exceed thirty micrograms per cubic meter, measured on a twenty-four hour average, within twenty-four hours.

(2) Actions of the department and local air pollution control authorities under this section shall preempt actions of other state agencies and local governments for the purposes of controlling air pollution from solid fuel burning devices, except where authorized by chapter 199, Laws of 1991.

(3)(a) The department or any local air pollution control authority that has called a second stage burn ban under the authority of subsection (1)(c)(ii) of this section shall, within ninety days, prepare a written report describing:

(i) The meteorological conditions that resulted in their calling the second stage burn ban;

(ii) Whether the agency could have taken actions to avoid calling a second stage burn ban without calling a first stage burn ban; and

(iii) Any changes the department or authority is making to its procedures of calling first stage and second stage burn bans to avoid calling a second stage burn ban without first calling a first stage burn ban.

(b) After consulting with affected parties, the department shall prescribe the format of such a report and may also require additional information be included in the report. All reports shall be sent to the department and the department shall keep the reports on file for not less than five years and available for public inspection and copying in accordance with RCW 42.56.090.

(4) For the purposes of chapter 219, Laws of 2012, an area at risk for nonattainment means an area where the three-year average of the annual ninety-eighth percentile of twenty-four hour fine particulate values is greater than twenty-nine micrograms per cubic meter, based on the years 2008 through 2010 monitoring data.

(5)(a) Nothing in this section restricts a person from installing or repairing a certified solid fuel burning device approved by the department under the program established under RCW 70.94.457 (as recodified by this act) in a residence or commercial establishment or from replacing a solid fuel burning device with a certified solid fuel burning device. Nothing in this section restricts a person from burning wood in a solid fuel burning device, regardless of whether a burn ban has been called, if there is an emergency power outage. In addition, for the duration of an emergency power outage, nothing restricts the use of a

solid fuel burning device or the temporary installation, repair, or replacement of a solid fuel burning device to prevent the loss of life, health, or business.

(b) For the purposes of this subsection, an emergency power outage includes:

(i) Any natural or human-caused event beyond the control of a person that (~~leaves~~) leaves the person's residence or commercial establishment temporarily without an adequate source of heat other than the solid fuel burning device; or

(ii) A natural or human-caused event for which the governor declares an emergency in an area under chapter 43.06 RCW, including a public disorder, disaster, or energy emergency under RCW 43.06.010(12).

Sec. 1120. RCW 70.94.475 and 1990 c 157 s 2 are each amended to read as follows:

A condominium owners' association or an association formed by residents of a multiple-family dwelling are not liable for violations of RCW 70.94.473 (as recodified by this act) by a resident of a condominium or multiple-family dwelling. The associations shall cooperate with local air pollution control authorities to acquaint residents with the provisions of this section.

Sec. 1121. RCW 70.94.477 and 2012 c 219 s 2 are each amended to read as follows:

(1) Unless allowed by rule under chapter 34.05 RCW, a person shall not cause or allow any of the following materials to be burned in any residential solid fuel burning device:

- (a) Garbage;
- (b) Treated wood;
- (c) Plastics;
- (d) Rubber products;
- (e) Animals;
- (f) Asphaltic products;
- (g) Waste petroleum products;
- (h) Paints; or

(i) Any substance, other than properly seasoned fuel wood, which normally emits dense smoke or obnoxious odors.

(2) To achieve and maintain attainment in areas of nonattainment for fine particulates in accordance with section 172 of the federal clean air act, a local air pollution control authority or the department may, after meeting requirements in subsection (3) of this section, prohibit the use of solid fuel burning devices, except:

(a) Fireplaces as defined in RCW 70.94.453(3) (as recodified by this act), except if needed to meet federal requirements as a contingency measure in a state implementation plan for a fine particulate nonattainment area;

(b) Woodstoves meeting the standards set forth in RCW 70.94.473(1)(b) (as recodified by this act); or

(c) Pellet stoves.

(3) Prior to prohibiting the use of solid fuel burning devices under subsection (2) of this section, the department or the local air pollution control authority must:

(a) Seek input from any city, county, or jurisdictional health department affected by the proposal to prohibit the use of solid fuel burning devices; and

(b) Make written findings that:

(i) The area is designated as an area of nonattainment for fine particulate matter by the United States environmental protection agency, or is in maintenance status under that designation;

(ii) Emissions from solid fuel burning devices in the area are a major contributing factor for violating the national ambient air quality standard for fine particulates; and

(iii) The area has an adequately funded program to assist low-income households to secure an adequate source of heat, which may include woodstoves meeting the requirements of RCW 70.94.453(2) (as recodified by this act).

(4) If and only if the nonattainment area is within the jurisdiction of the department and the legislative authority of a city or county within the area of nonattainment formally expresses concerns with the department's written findings, then the department must publish on the department's web site the reasons for prohibiting the use of solid fuel burning devices under subsection (2) of this section that includes a response to the concerns expressed by the city or county legislative authority.

(5) When a local air pollution control authority or the department prohibits the use of solid fuel burning devices as authorized by this section, the cities, counties, and jurisdictional health departments serving the area shall cooperate with the department or local air pollution control authority as the department or the local air pollution control authority implements the prohibition. The responsibility for actual enforcement of the prohibition shall reside solely with the department or the local air pollution control authority. A city, county, or jurisdictional health department serving a fine particulate nonattainment area may agree to assist with enforcement activities.

(6) A prohibition issued by a local air pollution control authority or the department under this section shall not apply to:

(a) A person in a residence or commercial establishment that does not have an adequate source of heat without burning wood; or

(b) A person with a shop or garage that is detached from the main residence or commercial establishment that does not have an adequate source of heat in the detached shop or garage without burning wood.

(7) On June 7, 2012, and prior to January 1, 2015, the local air pollution control authority or the department shall, within available resources, provide assistance to households using solid fuel burning devices to reduce the emissions from those devices or change out to a lower emission device. Prior to the effective date of a prohibition, as defined in this section, on the use of uncertified stoves, the department or local air pollution control authority shall provide public education in the nonattainment area regarding how households can reduce their emissions through cleaner burning practices, the importance of respecting burn bans, and the opportunities for assistance in obtaining a cleaner device. If the area is designated as a nonattainment area as of January 1, 2015, or if required by the United States environmental protection agency, the local air pollution control authority or the department may prohibit the use of uncertified devices.

(8) As used in this section:

(a) "Jurisdictional health department" means a city, county, city-county, or district public health department.

(b) "Prohibit the use" or "prohibition" may include requiring disclosure of an uncertified device, removal, or rendering inoperable, as may be approved by rule by a local air pollution control authority or the department. The effective date of such a rule may not be prior to January 1, 2015. However, except as provided in RCW 64.06.020 relating to the seller disclosure of wood burning appliances, any such prohibition may not include imposing separate time of sale obligations on the seller or buyer of real estate as part of a real estate transaction.

Sec. 1122. RCW 70.94.480 and 1990 c 128 s 6 are each amended to read as follows:

(1) The department of ecology shall establish a program to educate woodstove dealers and the public about:

(a) The effects of woodstove emissions on health and air quality;

(b) Methods of achieving better efficiency and emission performance from woodstoves;

(c) Woodstoves that have been approved by the department;

(d) The benefits of replacing inefficient woodstoves with stoves approved under RCW 70.94.457 (as recodified by this act).

(2) Persons selling new woodstoves shall distribute and verbally explain educational materials describing when a stove can and cannot be legally used to customers purchasing new woodstoves.

Sec. 1123. RCW 70.94.483 and 2003 1st sp.s. c 25 s 932 are each amended to read as follows:

(1) The woodstove education and enforcement account is hereby created in the state treasury. Money placed in the account shall include all money received under subsection (2) of this section and any other money appropriated by the legislature. Money in the account shall be spent for the purposes of the woodstove education program established under RCW 70.94.480 (as recodified by this act) and for enforcement of the woodstove program, and shall be subject to legislative appropriation. However, during the 2003-05 fiscal biennium, the legislature may transfer from the woodstove education and enforcement account to the air pollution control account such amounts as specified in the omnibus operating budget bill.

(2) The department of ecology, with the advice of the advisory committee, shall set a flat fee of thirty dollars, on the retail sale, as defined in RCW 82.04.050, of each solid fuel burning device after January 1, 1992. The fee shall be imposed upon the consumer and shall not be subject to the retail sales tax provisions of chapters 82.08 and 82.12 RCW. The fee may be adjusted annually above thirty dollars to account for inflation as determined by the state office of the economic and revenue forecast council. The fee shall be collected by the department of revenue in conjunction with the retail sales tax under chapter 82.08 RCW. If the seller fails to collect the fee herein imposed or fails to remit the fee to the department of revenue in the manner prescribed in chapter 82.08 RCW, the seller shall be personally liable to the state for the amount of the fee. The collection provisions of chapter 82.32 RCW shall apply. The department of revenue shall deposit fees collected under this section in the woodstove education and enforcement account.

Sec. 1124. RCW 70.94.524 and 2006 c 329 s 1 are each amended to read as follows:

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

(1) "A major employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months during the year.

(2) "Major worksite" means a building or group of buildings that are on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way, and at which there are one hundred or more full-time employees, who begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at least twelve continuous months.

(3) "Major employment installation" means a military base or federal reservation, excluding tribal reservations, at which there are one hundred or more full-time employees, who begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at least twelve continuous months during the year.

(4) "Person hours of delay" means the daily person hours of delay per mile in the peak period of 6:00 a.m. to 9:00 a.m., as calculated using the best available methodology by the department of transportation.

(5) "Commute trip" means trips made from a worker's home to a worksite during the peak period of 6:00 a.m. to 9:00 a.m. on weekdays.

(6) "Proportion of single-occupant vehicle commute trips" means the number of commute trips made by single-occupant automobiles divided by the number of full-time employees.

(7) "Commute trip vehicle miles traveled per employee" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.

(8) "Base year" means the twelve-month period commencing when a major employer is determined to be participating by the local jurisdiction, on which commute trip reduction goals shall be based.

(9) "Growth and transportation efficiency center" means a defined, compact, mixed-use urban area that contains jobs or housing and supports multiple modes of transportation. For the purpose of funding, a growth and transportation efficiency center must meet minimum criteria established by the commute trip reduction board under RCW 70.94.537 (as recodified by this act), and must be certified by a regional transportation planning organization as established in RCW 47.80.020.

(10)(a) "Affected urban growth area" means:

(i) An urban growth area, designated pursuant to RCW 36.70A.110, whose boundaries contain a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, and any contiguous urban growth areas; and

(ii) An urban growth area, designated pursuant to RCW 36.70A.110, containing a jurisdiction with a population over seventy thousand that adopted a commute trip reduction ordinance before the year 2000, and any contiguous urban growth areas.

(b) Affected urban growth areas will be listed by the department of transportation in the rules for chapter 329, Laws of 2006 using the criteria identified in (a) of this subsection.

(11) "Certification" means a determination by a regional transportation planning organization that a locally designated growth and transportation efficiency center program meets the minimum criteria developed in a collaborative regional process and the rules established by the department of transportation.

Sec. 1125. RCW 70.94.527 and 2006 c 329 s 2 are each amended to read as follows:

(1) Each county containing an urban growth area, designated pursuant to RCW 36.70A.110, and each city within an urban growth area with a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, as well as those counties and cities located in any contiguous urban growth areas, shall adopt a commute trip reduction plan and ordinance for major employers in the affected urban growth area by a date specified by the commute trip reduction board. Jurisdictions located within an urban growth area with a population greater than seventy thousand that adopted a commute trip reduction ordinance before the year 2000, as well as any jurisdiction within contiguous urban growth areas, shall also adopt a commute trip reduction plan and ordinance for major employers in the affected urban growth area by a date specified by the commute trip reduction board. Jurisdictions containing a major employment installation in a county with an affected growth area, designated pursuant to RCW 36.70A.110, shall adopt a commute trip reduction plan and ordinance for major employers in the major employment installation by a date specified by the commute trip reduction board. The ordinance shall establish the requirements for major employers and provide an appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of the ordinance, may obtain waiver or modification of those requirements. The plan shall be designed to achieve reductions in the proportion of single-occupant vehicle commute trips and be consistent with the rules established by the department of transportation. The county, city, or town shall submit its adopted plan to the regional transportation planning organization. The county, city, or town plan shall be included in the regional commute trip reduction plan for regional transportation planning purposes, consistent with the rules established by the department of transportation in RCW 70.94.537 (as recodified by this act).

(2) All other counties, cities, and towns may adopt and implement a commute trip reduction plan consistent with department of transportation rules established under RCW 70.94.537 (as recodified by this act). Tribal governments are encouraged to adopt a commute trip reduction plan for their lands. State investment in voluntary commute trip reduction plans shall be limited to those areas that meet criteria developed by the commute trip reduction board.

(3) The department of ecology may, after consultation with the department of transportation, as part of the state implementation plan for areas that do not attain the national ambient air quality standards for carbon monoxide or ozone, require municipalities other than those identified in subsection (1) of this section

to adopt and implement commute trip reduction plans if the department determines that such plans are necessary for attainment of said standards.

(4) A commute trip reduction plan shall be consistent with the rules established under RCW 70.94.537 (as recodified by this act) and shall include but is not limited to (a) goals for reductions in the proportion of single-occupant vehicle commute trips consistent with the state goals established by the commute trip reduction board under RCW 70.94.537 (as recodified by this act) and the regional commute trip reduction plan goals established in the regional commute trip reduction plan; (b) a description of the requirements for major public and private sector employers to implement commute trip reduction programs; (c) a commute trip reduction program for employees of the county, city, or town; and (d) means, consistent with rules established by the department of transportation, for determining base year values and progress toward meeting commute trip reduction plan goals. The plan shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.

(5) The commute trip reduction plans adopted by counties, cities, and towns under this chapter shall be consistent with and may be incorporated in applicable state or regional transportation plans and local comprehensive plans and shall be coordinated, and consistent with, the commute trip reduction plans of counties, cities, or towns with which the county, city, or town has, in part, common borders or related regional issues. Such regional issues shall include assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction. Counties, cities, and towns adopting commute trip reduction plans may enter into agreements through the interlocal cooperation act or by resolution or ordinance as appropriate with other jurisdictions, local transit agencies, transportation management associations or other private or nonprofit providers of transportation services, or regional transportation planning organizations to coordinate the development and implementation of such plans. Transit agencies shall work with counties, cities, and towns as a part of their six-year transit development plan established in RCW 35.58.2795 to take into account the location of major employer worksites when planning and prioritizing transit service changes or the expansion of public transportation services, including rideshare services. Counties, cities, or towns adopting a commute trip reduction plan shall review it annually and revise it as necessary to be consistent with applicable plans developed under RCW 36.70A.070. Regional transportation planning organizations shall review the local commute trip reduction plans during the development and update of the regional commute trip reduction plan.

(6) Each affected regional transportation planning organization shall adopt a commute trip reduction plan for its region consistent with the rules and deadline established by the department of transportation under RCW 70.94.537 (as recodified by this act). The plan shall include, but is not limited to: (a) Regional program goals for commute trip reduction in urban growth areas and all designated growth and transportation efficiency centers; (b) a description of strategies for achieving the goals; (c) a sustainable financial plan describing projected revenues and expenditures to meet the goals; (d) a description of the way in which progress toward meeting the goals will be measured; and (e) minimum criteria for growth and transportation efficiency centers. (i) Regional

transportation planning organizations shall review proposals from local jurisdictions to designate growth and transportation efficiency centers and shall determine whether the proposed growth and transportation efficiency center is consistent with the criteria defined in the regional commute trip reduction plan.

(ii) Growth and transportation efficiency centers certified as consistent with the minimum requirements by the regional transportation planning organization shall be identified in subsequent updates of the regional commute trip reduction plan. These plans shall be developed in collaboration with all affected local jurisdictions, transit agencies, and other interested parties within the region. The plan will be reviewed and approved by ~~((the))~~ the commute trip reduction board as established under RCW 70.94.537 (as recodified by this act). Regions without an approved regional commute trip reduction plan shall not be eligible for state commute trip reduction program funds.

The regional commute trip reduction plan shall be consistent with and incorporated into transportation demand management components in the regional transportation plan as required by RCW 47.80.030.

(7) Each regional transportation planning organization implementing a regional commute trip reduction program shall, consistent with the rules and deadline established by the department of transportation, submit its plan as well as any related local commute trip reduction plans and certified growth and transportation efficiency center programs, to the commute trip reduction board established under RCW 70.94.537 (as recodified by this act). The commute trip reduction board shall review the regional commute trip reduction plan and the local commute trip reduction plans. The regional transportation planning organization shall collaborate with the commute trip reduction board to evaluate the consistency of local commute trip reduction plans with the regional commute trip reduction plan. Local and regional plans must be approved by the commute trip reduction board in order to be eligible for state funding provided for the purposes of this chapter.

(8) Each regional transportation planning organization implementing a regional commute trip reduction program shall submit an annual progress report to the commute trip reduction board established under RCW 70.94.537 (as recodified by this act). The report shall be due at the end of each state fiscal year for which the program has been implemented. The report shall describe progress in attaining the applicable commute trip reduction goals and shall highlight any problems being encountered in achieving the goals. The information shall be reported in a form established by the commute trip reduction board.

(9) Any waivers or modifications of the requirements of a commute trip reduction plan granted by a jurisdiction shall be submitted for review to the commute trip reduction board established under RCW 70.94.537 (as recodified by this act). The commute trip reduction board may not deny the granting of a waiver or modification of the requirements of a commute trip reduction plan by a jurisdiction but they may notify the jurisdiction of any comments or objections.

(10) Plans implemented under this section shall not apply to commute trips for seasonal agricultural employees.

(11) Plans implemented under this section shall not apply to construction worksites when the expected duration of the construction project is less than two years.

(12) If an affected urban growth area has not previously implemented a commute trip reduction program and the state has funded solutions to state highway deficiencies to address the area's exceeding the person hours of delay threshold, the affected urban growth area shall be exempt from the duties of this section for a period not exceeding two years.

Sec. 1126. RCW 70.94.528 and 2006 c 329 s 4 are each amended to read as follows:

(1) A county, city, or town may, as part of its commute trip reduction plan, designate existing activity centers listed in its comprehensive plan or new activity centers as growth and transportation efficiency centers and establish a transportation demand management program in the designated area.

(a) The transportation demand management program for the growth and transportation efficiency center shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.

(b) In order to be eligible for state funding provided for the purposes of this section, designated growth and transportation efficiency centers shall be certified by the applicable regional transportation organization to: (i) Meet the minimum land use and transportation criteria established in collaboration among local jurisdictions, transit agencies, the regional transportation planning organization, and other interested parties as part of the regional commute trip reduction plan; and (ii) have established a transportation demand management program that includes the elements identified in (c) of this subsection and is consistent with the rules established by the department of transportation in RCW 70.94.537(2) (as recodified by this act). If a designated growth and transportation efficiency center is denied certification, the local jurisdiction may appeal the decision to the commute trip reduction board.

(c) Transportation demand management programs for growth and transportation efficiency centers shall include, but are not limited to: (i) Goals for reductions in the proportion of single-occupant vehicle trips that are more aggressive than the state program goal established by the commute trip reduction board; (ii) a sustainable financial plan demonstrating how the program can be implemented to meet state and regional trip reduction goals, 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 consistent with chapter 47.29 RCW, including public/private partnerships, to finance needed facilities, services, and programs; (iii) a proposed organizational structure for implementing the program; (iv) a proposal to measure performance toward the goal and implementation progress; and (v) an evaluation to which local land use and transportation policies apply, including parking policies and ordinances, to determine the extent that they complement and support the trip reduction investments of major employers. Each of these program elements shall be consistent with the rules established under RCW 70.94.537 (as recodified by this act).

(d) A designated growth and transportation efficiency center shall be consistent with the land use and transportation elements of the local comprehensive plan.

(e) Transit agencies, local governments, and regional transportation planning organizations shall identify certified growth and transportation

efficiency centers as priority areas for new service and facility investments in their respective investment plans.

(2) A county, city, or town that has established a growth and transportation efficiency center program shall support vehicle trip reduction activities in the designated area. The implementing jurisdiction shall adopt policies, ordinances, and funding strategies that will lead to attainment of program goals in those areas.

Sec. 1127. RCW 70.94.531 and 2013 c 26 s 1 are each amended to read as follows:

(1) State agency worksites are subject to the same requirements under this section and RCW 70.94.534 (as recodified by this act) as private employers.

(2) Not more than ninety days after the adoption of a jurisdiction's commute trip reduction plan, each major employer in that jurisdiction shall perform a baseline measurement consistent with the rules established by the department of transportation under RCW 70.94.537 (as recodified by this act). Not more than ninety days after receiving the results of the baseline measurement, each major employer shall develop a commute trip reduction program and shall submit a description of that program to the jurisdiction for review. The program shall be implemented not more than ninety days after approval by the jurisdiction.

(3) A commute trip reduction program of a major employer shall consist of, at a minimum (a) designation of a transportation coordinator and the display of the name, location, and telephone number of the coordinator in a prominent manner at each affected worksite; (b) regular distribution of information to employees regarding alternatives to single-occupant vehicle commuting; (c) a regular review of employee commuting and reporting of progress toward meeting the single-occupant vehicle reduction goals to the county, city, or town consistent with the method established in the commute trip reduction plan and the rules established by the department of transportation under RCW 70.94.537 (as recodified by this act); and (d) implementation of a set of measures designed to achieve the applicable commute trip reduction goals adopted by the jurisdiction. Such measures may include but are not limited to:

(i) Provision of preferential parking or reduced parking charges, or both, for high occupancy vehicles and motorcycles;

(ii) Instituting or increasing parking charges for single-occupant vehicles;

(iii) Provision of commuter ride matching services to facilitate employee ride sharing for commute trips;

(iv) Provision of subsidies for transit fares;

(v) Provision of vans for van pools;

(vi) Provision of subsidies for car pooling or van pooling;

(vii) Permitting the use of the employer's vehicles for car pooling or van pooling;

(viii) Permitting flexible work schedules to facilitate employees' use of transit, car pools, or van pools;

(ix) Cooperation with transportation providers to provide additional regular or express service to the worksite;

(x) Construction of special loading and unloading facilities for transit, car pool, and van pool users;

(xi) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

(xii) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facility;

(xiii) Establishment of a program to permit employees to work part or full time at home or at an alternative worksite closer to their homes;

(xiv) Establishment of a program of alternative work schedules such as compressed workweek schedules which reduce commuting; and

(xv) Implementation of other measures designed to facilitate the use of high occupancy vehicles such as on-site day care facilities and emergency taxi services.

(4) Employers or owners of worksites may form or utilize existing transportation management associations or other transportation-related associations authorized by RCW 35.87A.010 to assist members in developing and implementing commute trip reduction programs.

(5) Employers shall make a good faith effort towards achievement of the goals identified in RCW 70.94.527(4)(d) (as recodified by this act).

Sec. 1128. RCW 70.94.534 and 2006 c 329 s 6 are each amended to read as follows:

(1) Each jurisdiction implementing a commute trip reduction plan under this chapter or as part of a plan or ordinance developed under RCW 36.70A.070 shall review each employer's initial commute trip reduction program to determine if the program is likely to meet the applicable commute trip reduction goals. The employer shall be notified by the jurisdiction of its findings. If the jurisdiction finds that the program is not likely to meet the applicable commute trip reduction goals, the jurisdiction will work with the employer to modify the program as necessary. The jurisdiction shall complete review of each employer's initial commute trip reduction program within ninety days of receipt.

(2) Employers implementing commute trip reduction programs are expected to undertake good faith efforts to achieve the goals outlined in RCW 70.94.527(4) (as recodified by this act). Employers are considered to be making a good faith effort if the following conditions have been met:

(a) The employer has met the minimum requirements identified in RCW 70.94.531 (as recodified by this act);

(b) The employer has notified the jurisdiction of its intent to substantially change or modify its program and has either received the approval of the jurisdiction to do so or has acknowledged that its program may not be approved without additional modifications;

(c) The employer has provided adequate information and documentation of implementation when requested by the jurisdiction; and

(d) The employer is working collaboratively with its jurisdiction to continue its existing program or is developing and implementing program modifications likely to result in improvements to the program over an agreed upon length of time.

(3) Each jurisdiction shall review at least once every two years each employer's progress and good faith efforts toward meeting the applicable commute trip reduction goals. If an employer makes a good faith effort, as defined in this section, but is not likely to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to make modifications to the commute trip reduction program. Failure of an

employer to reach the applicable commute trip reduction goals is not a violation of this chapter.

(4) If an employer fails to make a good faith effort and fails to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to propose modifications to the program and shall direct the employer to revise its program within thirty days to incorporate those modifications or modifications which the jurisdiction determines to be equivalent.

(5) Each jurisdiction implementing a commute trip reduction plan pursuant to this chapter may impose civil penalties, in the manner provided in chapter 7.80 RCW, for failure by an employer to implement a commute trip reduction program or to modify its commute trip reduction program as required in subsection (4) of this section. No major employer may be held liable for civil penalties for failure to reach the applicable commute trip reduction goals. No major employer shall be liable for civil penalties under this chapter if failure to achieve a commute trip reduction program goal was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith.

(6) Jurisdictions shall notify major employers of the procedures for applying for goal modification or exemption from the commute trip reduction requirements based on the guidelines established by the commute trip reduction board authorized under RCW 70.94.537 (as recodified by this act).

Sec. 1129. RCW 70.94.541 and 2009 c 427 s 1 are each amended to read as follows:

(1) The department of transportation shall provide staff support to the commute trip reduction board in carrying out the requirements of RCW 70.94.537 (as recodified by this act).

(2) The department of transportation shall provide technical assistance to regional transportation planning organizations, counties, cities, towns, state agencies, as defined in RCW 40.06.010, and other employers in developing and implementing commute trip reduction plans and programs. The technical assistance shall include: (a) Guidance in single measurement methodology and practice to be used in determining progress in attaining plan goals; (b) developing model plans and programs appropriate to different situations; and (c) providing consistent training and informational materials for the implementation of commute trip reduction programs. Model plans and programs, training, and informational materials shall be developed in cooperation with representatives of regional transportation planning organizations, local governments, transit agencies, and employers.

(3) In carrying out this section the department of transportation may contract with statewide associations representing cities, towns, and counties to assist cities, towns, and counties in implementing commute trip reduction plans and programs.

Sec. 1130. RCW 70.94.544 and 2006 c 329 s 9 are each amended to read as follows:

A portion of the funds made available for the purposes of this chapter shall be used to fund the commute trip reduction board in carrying out the responsibilities of RCW 70.94.537 (as recodified by this act), and the

department of transportation, including the activities authorized under RCW 70.94.541(2) (as recodified by this act), and to assist regional transportation planning organizations, counties, cities, and towns implementing commute trip reduction plans. The commute trip reduction board shall determine the allocation of program funds made available for the purposes of this chapter to regional transportation planning organizations, counties, cities, and towns implementing commute trip reduction plans. If state funds for the purposes of this chapter are provided to those jurisdictions implementing voluntary commute trip reduction plans, the funds shall be disbursed based on criteria established by the commute trip reduction board under RCW 70.94.537 (as recodified by this act).

Sec. 1131. RCW 70.94.551 and 2015 c 225 s 105 are each amended to read as follows:

(1) The secretary of the department of transportation may coordinate an interagency board or other interested parties for the purpose of developing policies or guidelines that promote consistency among state agency commute trip reduction programs required by RCW 70.94.527 and 70.94.531 (as recodified by this act) or developed under the joint comprehensive commute trip reduction plan described in this section. The board shall include representatives of the departments of transportation, enterprise services, ecology, and commerce and such other departments and interested groups as the secretary of the department of transportation determines to be necessary. Policies and guidelines shall be applicable to all state agencies including but not limited to policies and guidelines regarding parking and parking charges, employee incentives for commuting by other than single-occupant automobiles, flexible and alternative work schedules, alternative worksites, and the use of state-owned vehicles for car and van pools and guaranteed rides home. The policies and guidelines shall also consider the costs and benefits to state agencies of achieving commute trip reductions and consider mechanisms for funding state agency commute trip reduction programs.

(2) State agencies sharing a common location in affected urban growth areas where the total number of state employees is one hundred or more shall, with assistance from the department of transportation, develop and implement a joint commute trip reduction program. The worksite must be treated as specified in RCW 70.94.531 and 70.94.534 (as recodified by this act).

(3) The department of transportation shall develop a joint comprehensive commute trip reduction plan for all state agencies, including institutions of higher education, located in the Olympia, Lacey, and Tumwater urban growth areas.

(a) In developing the joint comprehensive commute trip reduction plan, the department of transportation shall work with applicable state agencies, including institutions of higher education, and shall collaborate with the following entities: Local jurisdictions; regional transportation planning organizations as described in chapter 47.80 RCW; transit agencies, including regional transit authorities as described in chapter 81.112 RCW and transit agencies that serve areas within twenty-five miles of the Olympia, Lacey, or Tumwater urban growth areas; and the capitol campus design advisory committee established in RCW 43.34.080.

(b) The joint comprehensive commute trip reduction plan must build on existing commute trip reduction programs and policies. At a minimum, the joint comprehensive commute trip reduction plan must include strategies for telework

and flexible work schedules, parking management, and consideration of the impacts of worksite location and design on multimodal transportation options.

(c) The joint comprehensive commute trip reduction plan must include performance measures and reporting methods and requirements.

(d) The joint comprehensive commute trip reduction plan may include strategies to accommodate differences in worksite size and location.

(e) The joint comprehensive commute trip reduction plan must be consistent with jurisdictional and regional transportation, land use, and commute trip reduction plans, the state six-year facilities plan, and the master plan for the capitol of the state of Washington.

(f) Not more than ninety days after the adoption of the joint comprehensive commute trip reduction plan, state agencies within the three urban growth areas must implement a commute trip reduction program consistent with the objectives and strategies of the joint comprehensive commute trip reduction plan.

(4) The department of transportation shall review the initial commute trip reduction program of each state agency subject to the commute trip reduction plan for state agencies to determine if the program is likely to meet the applicable commute trip reduction goals and notify the agency of any deficiencies. If it is found that the program is not likely to meet the applicable commute trip reduction goals, the department of transportation will work with the agency to modify the program as necessary.

(5) Each state agency implementing a commute trip reduction plan shall report at least once per year to its agency director on the performance of the agency's commute trip reduction program as part of the agency's quality management, accountability, and performance system as defined by RCW 43.17.385. The reports shall assess the performance of the program, progress toward state goals established under RCW 70.94.537 (as recodified by this act), and recommendations for improving the program.

(6) The department of transportation shall review the agency performance reports defined in subsection (5) of this section and submit a biennial report for state agencies subject to this chapter to the governor and incorporate the report in the commute trip reduction board report to the legislature as directed in RCW 70.94.537(6) (as recodified by this act). The report shall include, but is not limited to, an evaluation of the most recent measurement results, progress toward state goals established under RCW 70.94.537 (as recodified by this act), and recommendations for improving the performance of state agency commute trip reduction programs. The information shall be reported in a form established by the commute trip reduction board.

Sec. 1132. RCW 70.94.640 and 2017 c 217 s 1 are each amended to read as follows:

(1) Odors or fugitive dust caused by agricultural activity consistent with good agricultural practices on agricultural land are exempt from the requirements of this chapter unless they have a substantial adverse effect on public health. In determining whether agricultural activity is consistent with good agricultural practices, the department of ecology or board of any authority shall consult with a recognized third-party expert in the activity prior to issuing any notice of violation.

(2) Any notice of violation issued under this chapter pertaining to odors or fugitive dust caused by agricultural activity shall include a detailed statement with evidence as to why the activity is inconsistent with good agricultural practices, or a detailed statement with evidence that the odors or fugitive dust have substantial adverse effect on public health.

(3) In any appeal to the pollution control hearings board or any judicial appeal, the agency issuing a final order pertaining to odors or fugitive dust caused by agricultural activity shall prove the activity is inconsistent with good agricultural practices or that the odors or fugitive dust have a substantial adverse impact on public health.

(4) If a person engaged in agricultural activity on a contiguous piece of agricultural land sells or has sold a portion of that land for residential purposes, the exemption of this section shall not apply.

(5) As used in this section:

(a) "Agricultural activity" means the growing, raising, or production of horticultural or viticultural crops, berries, poultry, livestock, shellfish, grain, mint, hay, and dairy products. "Agricultural activity" also includes the growing, raising, or production of cattle at cattle feedlots.

(b) "Good agricultural practices" means economically feasible practices which are customary among or appropriate to farms and ranches of a similar nature in the local area and for cattle feedlots means implementing best management practices pursuant to a fugitive dust control plan that conforms to the fugitive dust control guidelines for beef cattle feedlots, best management practices, and plan development and approval procedures that were approved by the department of ecology in December 1995 or in updates to those guidelines that are mutually agreed to by the department of ecology and by the Washington cattle feeders association or a successor organization on behalf of cattle feedlots.

(c) "Agricultural land" means at least five acres of land devoted primarily to the commercial production of livestock, agricultural commodities, or cultured aquatic products.

(d) "Fugitive dust" means a particulate emission made airborne by human activity, forces of wind, or both, and which do not pass through a stack, chimney, vent, or other functionally equivalent opening.

(6) The exemption for fugitive dust provided in subsection (1) of this section does not apply to facilities subject to RCW 70.94.151 as specified in WAC 173-400-100 as of July 24, 2005, 70.94.152, or 70.94.161 (as recodified by this act). The exemption for fugitive dust provided in subsection (1) of this section applies to cattle feedlots with operational facilities which have an inventory of one thousand or more cattle in operation between June 1st and October 1st, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season; except that the cattle feedlots must comply with applicable requirements included in the approved state implementation plan for air quality as of July 23, 2017; and except if an area in which a cattle feedlot is located is at any time in the future designated nonattainment for a national ambient air quality standard for particulate matter, additional control measures may be required for cattle feedlots as part of a state implementation plan's control strategy for that area and as necessary to ensure the area returns to attainment.

Sec. 1133. RCW 70.94.6512 and 2009 c 118 s 102 are each amended to read as follows:

Except as provided in RCW 70.94.6546 (as recodified by this act), no person shall cause or allow any outdoor fire:

(1) Containing garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, or any substance other than natural vegetation that normally emits dense smoke or obnoxious odors. Agricultural heating devices that otherwise meet the requirements of this chapter shall not be considered outdoor fires under this section;

(2) During a forecast, alert, warning or emergency condition as defined in RCW 70.94.715 (as recodified by this act) or impaired air quality condition as defined in RCW 70.94.473 (as recodified by this act).

Sec. 1134. RCW 70.94.6514 and 2019 c 305 s 3 are each amended to read as follows:

(1) Consistent with the policy of the state to reduce outdoor burning to the greatest extent practical, outdoor burning shall not be allowed in:

(a) Any area of the state where federal or state ambient air quality standards are exceeded for pollutants emitted by outdoor burning; or

(b) Any urban growth area as defined by RCW 36.70A.030, or any city of the state having a population greater than ten thousand people if such cities are threatened to exceed state or federal air quality standards, and alternative disposal practices consistent with good solid waste management are reasonably available or practices eliminating production of organic refuse are reasonably available.

(2) Notwithstanding any other provision of this section, outdoor burning may be allowed for the exclusive purpose of managing storm or flood-related debris. The decision to allow burning shall be made by the entity with permitting jurisdiction as determined under RCW 70.94.6534 or 70.94.6518 (as recodified by this act). If outdoor burning is allowed in areas subject to subsection (1)(a) or (b) of this section, a permit shall be required, and a fee may be collected to cover the expenses of administering and enforcing the permit. All conditions and restrictions pursuant to RCW 70.94.6526(1) and 70.94.6512 (as recodified by this act) apply to outdoor burning allowed under this section.

(3)(a) Outdoor burning that is normal, necessary, and customary to ongoing agricultural activities, that is consistent with agricultural burning authorized under RCW 70.94.6528 and 70.94.6532 (as recodified by this act), is allowed within the urban growth area in accordance with RCW 70.94.6528(8)(a) (as recodified by this act).

(b) Outdoor burning of cultivated orchard trees shall be allowed as an ongoing agricultural activity under this section in accordance with RCW 70.94.6528(8)(b) (as recodified by this act).

(4) This section shall not apply to silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

(5) Notwithstanding any other provisions of this section, outdoor burning that reduces the risk of a wildfire, or is normal, necessary, and customary to ongoing silvicultural activities consistent with silvicultural burning authorized under RCW 70.94.6534(1) (as recodified by this act), is allowed within the

urban growth area in accordance with RCW 70.94.6534 (as recodified by this act). Before issuing a burn permit within the urban growth area for any burn that exceeds one hundred tons of material, the department of natural resources shall consult with department of ecology and condition the issuance and use of such permits to comply with air quality standards established by the department of ecology.

Sec. 1135. RCW 70.94.6516 and 1991 c 199 s 411 are each amended to read as follows:

In addition to any other powers granted to them by law, the fire protection agency, county, or conservation district issuing burning permits shall regulate or prohibit outdoor burning as necessary to prevent or abate the nuisances caused by such burning. No fire protection agency, county, or conservation district may issue a burning permit in an area where the department or local board has declared any stage of impaired air quality per RCW 70.94.473 (as recodified by this act) or any stage of an air pollution episode. All burning permits issued shall be subject to all applicable fee, permitting, penalty, and enforcement provisions of this chapter. The permitted burning shall not cause damage to public health or the environment.

Any entity issuing a permit under this section may charge a fee at the level necessary to recover the costs of administering and enforcing the permit program.

Sec. 1136. RCW 70.94.6518 and 2009 c 118 s 201 are each amended to read as follows:

Each activated air pollution control authority, and the department of ecology in those areas outside the jurisdictional boundaries of an activated air pollution control authority, shall establish, through regulations, ordinances, or policy, a program implementing the limited burning policy authorized by RCW 70.94.6514, 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, and 70.94.6526 (as recodified by this act).

Sec. 1137. RCW 70.94.6520 and 2009 c 118 s 202 are each amended to read as follows:

Nothing contained in RCW 70.94.6514, 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, and 70.94.6526 (as recodified by this act) is intended to alter or change the provisions of RCW 70.94.6534 (as recodified by this act), 70.94.710 through 70.94.730 (as recodified by this act), and 76.04.205.

Sec. 1138. RCW 70.94.6522 and 2009 c 118 s 203 are each amended to read as follows:

Nothing in RCW 70.94.6514, 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, and 70.94.6526 (as recodified by this act) shall be construed as prohibiting a local air pollution control authority or the department of ecology in those areas outside the jurisdictional boundaries of an activated pollution control authority from allowing the burning of outdoor fires.

Sec. 1139. RCW 70.94.6524 and 2019 c 305 s 4 are each amended to read as follows:

(1) It shall be the responsibility and duty of the department of natural resources, department of ecology, department of agriculture, county fire marshals in consultation with fire districts, and local air pollution control

authorities to establish, through regulations, ordinances, or policy, a limited burning permit program.

(2) The permit program shall apply to residential and land clearing burning in the following areas:

(a) In the nonurban areas of any county with an unincorporated population of greater than fifty thousand; and

(b) In any city and urban growth area that is not otherwise prohibited from burning pursuant to RCW 70.94.6514 (as recodified by this act).

(3) The permit program shall apply only to land clearing burning in the nonurban areas of any county with an unincorporated population of less than fifty thousand.

(4) The permit program may be limited to a general permit by rule, or by verbal, written, or electronic approval by the permitting entity.

(5) Notwithstanding any other provision of this section, neither a permit nor the payment of a fee shall be required for outdoor burning for the purpose of disposal of tumbleweeds blown by wind. Such burning shall not be conducted during an air pollution episode or any stage of impaired air quality declared under RCW 70.94.715 (as recodified by this act). This subsection (5) shall only apply within counties with a population less than two hundred fifty thousand.

(6) Burning shall be prohibited in an area when an alternate technology or method of disposing of the organic refuse is available, reasonably economical, and less harmful to the environment. It is the policy of this state to foster and encourage development of alternate methods or technology for disposing of or reducing the amount of organic refuse.

(7) Incidental agricultural burning must be allowed without applying for any permit and without the payment of any fee if:

(a) The burning is incidental to commercial agricultural activities;

(b) The operator notifies the local fire department within the area where the burning is to be conducted;

(c) The burning does not occur during an air pollution episode or any stage of impaired air quality declared under RCW 70.94.715 (as recodified by this act); and

(d) Only the following items are burned:

(i) Orchard prunings;

(ii) Organic debris along fence lines or irrigation or drainage ditches; or

(iii) Organic debris blown by wind.

(8) As used in this section, "nonurban areas" are unincorporated areas within a county that are not designated as urban growth areas under chapter 36.70A RCW.

(9) Nothing in this section shall require fire districts to enforce air quality requirements related to outdoor burning, unless the fire district enters into an agreement with the department of ecology, department of natural resources, a local air pollution control authority, or other appropriate entity to provide such enforcement.

Sec. 1140. RCW 70.94.6528 and 2010 c 70 s 1 are each amended to read as follows:

(1) Any person who proposes to set fires in the course of agricultural activities shall obtain a permit from an air pollution control authority, the department of ecology, or a local entity delegated permitting authority under

RCW 70.94.6530 (as recodified by this act). General permit criteria of statewide applicability shall be established by the department, by rule, after consultation with the various air pollution control authorities.

(a) Permits shall be issued under this section based on seasonal operations or by individual operations, or both.

(b) Incidental agricultural burning consistent with provisions established in RCW 70.94.6524 (as recodified by this act) is allowed without applying for any permit and without the payment of any fee.

(2) The department of ecology, local air authorities, or a local entity with delegated permit authority shall:

(a) Condition all permits to ensure that the public interest in air, water, and land pollution and safety to life and property is fully considered;

(b) Condition all burning permits to minimize air pollution insofar as practical;

(c) Act upon, within seven days from the date an application is filed under this section, an application for a permit to set fires in the course of agricultural burning for controlling diseases, insects, weed abatement, or development of physiological conditions conducive to increased crop yield;

(d) Provide convenient methods for issuance and oversight of agricultural burning permits; and

(e) Work, through agreement, with counties and cities to provide convenient methods for granting permission for agricultural burning, including telephone, facsimile transmission, issuance from local city or county offices, or other methods.

(3) A local air authority administering the permit program under subsection (2) of this section shall not limit the number of days of allowable agricultural burning, but may consider the time of year, meteorological conditions, and other criteria specified in rules adopted by the department to implement subsection (2) of this section.

(4) In addition to following any other requirements established by the department to protect air quality pursuant to other laws, applicants for permits must show that the setting of fires as requested is the most reasonable procedure to follow in safeguarding life or property under all circumstances or is otherwise reasonably necessary to successfully carry out the enterprise in which the applicant is engaged, or both. Nothing in this section relieves the applicant from obtaining permits, licenses, or other approvals required by any other law.

(5) The department of ecology, the appropriate local air authority, or a local entity with delegated permitting authority pursuant to RCW 70.94.6530 (as recodified by this act) at the time the permit is issued shall assess and collect permit fees for burning under this section. All fees collected shall be deposited in the air pollution control account created in RCW 70.94.015 (as recodified by this act), except for that portion of the fee necessary to cover local costs of administering a permit issued under this section. Fees shall be set by rule by the permitting agency at the level determined by the task force created by subsection (6) of this section, but fees for field burning shall not exceed three dollars and seventy-five cents per acre to be burned, or in the case of pile burning shall not exceed one dollar per ton of material burned.

(6) An agricultural burning practices and research task force shall be established under the direction of the department. The task force shall be

composed of a representative from the department who shall serve as chair; one representative of eastern Washington local air authorities; three representatives of the agricultural community from different agricultural pursuits; one representative of the department of agriculture; two representatives from universities or colleges knowledgeable in agricultural issues; one representative of the public health or medical community; and one representative of the conservation districts. The task force shall:

(a) Identify best management practices for reducing air contaminant emissions from agricultural activities and provide such information to the department and local air authorities;

(b) Determine the level of fees to be assessed by the permitting agency pursuant to subsection (5) of this section, based upon the level necessary to cover the costs of administering and enforcing the permit programs, to provide funds for research into alternative methods to reduce emissions from such burning, and to the extent possible be consistent with fees charged for such burning permits in neighboring states. The fee level shall provide, to the extent possible, for lesser fees for permittees who use best management practices to minimize air contaminant emissions;

(c) Identify research needs related to minimizing emissions from agricultural burning and alternatives to such burning; and

(d) Make recommendations to the department on priorities for spending funds provided through this chapter for research into alternative methods to reduce emissions from agricultural burning.

(7) Conservation districts and the Washington State University agricultural extension program in conjunction with the department shall develop public education material for the agricultural community identifying the health and environmental effects of agricultural outdoor burning and providing technical assistance in alternatives to agricultural outdoor burning.

(8)(a) Outdoor burning that is normal, necessary, and customary to ongoing agricultural activities, that is consistent with agricultural burning authorized under this section and RCW 70.94.6532 (as recodified by this act), is allowed within the urban growth area as described in RCW 70.94.6514 (as recodified by this act) if the burning is not conducted during air quality episodes, or where a determination of impaired air quality has been made as provided in RCW 70.94.473 (as recodified by this act), and the agricultural activities preceded the designation as an urban growth area.

(b) Outdoor burning of cultivated orchard trees, whether or not agricultural crops will be replanted on the land, shall be allowed as an ongoing agricultural activity under this section if a local horticultural pest and disease board formed under chapter 15.09 RCW, an extension office agent with Washington State University that has horticultural experience, or an entomologist employed by the department of agriculture, has determined in writing that burning is an appropriate method to prevent or control the spread of horticultural pests or diseases.

Sec. 1141. RCW 70.94.6530 and 2009 c 118 s 402 are each amended to read as follows:

Whenever an air pollution control authority, or the department of ecology for areas outside the jurisdictional boundaries of an activated air pollution control authority, shall find that any fire protection agency, county, or

conservation district is capable of effectively administering the issuance and enforcement of permits for any or all of the kinds of burning identified in RCW 70.94.6528, 70.94.6546, and 70.94.6552 (as recodified by this act) and desirous of doing so, the authority or the department of ecology, as appropriate, may delegate powers necessary for the issuance or enforcement, or both, of permits for any or all of the kinds of burning to the fire protection agency, county, or conservation district. Such delegation may be withdrawn by the authority or the department of ecology upon finding that the fire protection agency, county, or conservation district is not effectively administering the permit program.

Sec. 1142. RCW 70.94.6532 and 2012 c 198 s 1 are each amended to read as follows:

It is hereby declared to be the policy of this state that strong efforts should be made to minimize adverse effects on air quality from the open burning of field and turf grasses grown for seed. To such end this section is intended to promote the development of economical and practical alternate agricultural practices to such burning, and to provide for interim regulation of such burning until practical alternates are found.

(1) The department shall approve of a study or studies for the exploration and identification of economical and practical alternate agricultural practices to the open burning of field and turf grasses grown for seed. Any study conducted pursuant to this section shall be conducted by Washington State University. The university may not charge more than eight percent for administrative overhead. Prior to the issuance of any permit for such burning under RCW 70.94.6528 (as recodified by this act), there shall be collected a fee not to exceed one dollar per acre of crop to be burned. Any such fees received by any authority shall be transferred to the department of ecology. The department of ecology shall deposit all such acreage fees in the general fund.

(2) The department shall allocate moneys annually for the support of any approved study or studies as provided for in subsection (1) of this section. The fee collected under subsection (1) of this section shall constitute the research portion of fees required under RCW 70.94.6528 (as recodified by this act) for open burning of grass grown for seed.

(3) Whenever on the basis of information available to it, the department after public hearings have been conducted wherein testimony will be received and considered from interested parties wishing to testify shall conclude that any procedure, program, technique, or device constitutes a practical alternate agricultural practice to the open burning of field or turf grasses grown for seed, the department shall, by order, certify approval of such alternate. Thereafter, in any case which any such approved alternate is reasonably available, the open burning of field and turf grasses grown for seed shall be disallowed and no permit shall issue therefor.

(4) Until approved alternates become available, the department or the authority may limit the number of acres on a pro rata basis among those affected for which permits to burn will be issued in order to effectively control emissions from this source.

(5) Permits issued for burning of field and turf grasses may be conditioned to minimize emissions insofar as practical, including denial of permission to burn during periods of adverse meteorological conditions.

(6) Every two years until grass seed burning is prohibited, Washington State University may prepare a brief report assessing the potential of the university's research to result in economical and practical alternatives to grass seed burning.

Sec. 1143. RCW 70.94.6534 and 2019 c 305 s 5 are each amended to read as follows:

(1) The department of natural resources is responsible for issuing and regulating burning permits required by it relating to the following activities for the protection of life or property and for the public health, safety, and welfare:

(a) Abating or prevention of a forest fire hazard;

(b) Reducing the risk of a wildfire under RCW 70.94.6514(5) (as recodified by this act);

(c) Instruction of public officials in methods of forest firefighting;

(d) Any silvicultural operation to improve the forestlands of the state, including but not limited to forest health and resiliency, decreasing forest insect or disease susceptibility, maintaining or restoring native vegetation, or otherwise enhancing resiliency to fire; and

(e) Silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

(2) The department of natural resources shall not retain such authority, but it shall be the responsibility of the appropriate fire protection agency for permitting and regulating outdoor burning on lands where the department of natural resources does not have fire protection responsibility, except for the issuance of permits for reducing the risk of wildfire under RCW 70.94.6514(5) (as recodified by this act). The department of natural resources may enter into cooperative agreements with local fire protection agencies to issue permits for reducing wildfire risk under RCW 70.94.6514(5) (as recodified by this act).

(3) Permit fees shall be assessed for wildfire risk reduction and for silvicultural burning under the jurisdiction of the department of natural resources and collected by the department of natural resources as provided for in this section. All fees shall be deposited in the air pollution control account, created in RCW 70.94.015 (as recodified by this act). The legislature shall appropriate to the department of natural resources funds from the air pollution control account to enforce and administer the program under this section and RCW 70.94.6536, 70.94.6538, and 70.94.6540 (as recodified by this act). Fees shall be set by rule by the department of natural resources at the level necessary to cover the costs of the program after receiving recommendations on such fees from the public.

Sec. 1144. RCW 70.94.6538 and 2019 c 305 s 7 are each amended to read as follows:

The department of natural resources, in granting burning permits for fires for the purposes set forth in RCW 70.94.6534 (as recodified by this act), shall condition the issuance and use of such permits to comply to the extent feasible with air quality standards established by the department of ecology. Such burning shall not cause the state air quality standards to be exceeded in the ambient air up to two thousand feet above ground level over critical areas designated by the department of ecology, otherwise subject to air pollution from other sources. Air quality standards shall be established and published by the

department of ecology which shall also establish a procedure for advising the department of natural resources when and where air contaminant levels exceed or threaten to exceed the ambient air standards over such critical areas. The air quality shall be quantitatively measured by the department of ecology or the appropriate local air pollution control authority at established monitoring stations over such designated areas. Further, such permitted burning shall not cause damage to public health or the environment. All permits issued under this section shall be subject to all applicable fees, permitting, penalty, and enforcement provisions of this chapter. The department of natural resources shall set forth smoke dispersal objectives designed consistent with this section to minimize any air pollution from such burning and the procedures necessary to meet those objectives.

The department of natural resources shall encourage more intense utilization in logging and alternative silviculture practices to reduce the need for burning. The department of natural resources shall, whenever practical, encourage landowners to develop and use alternative acceptable disposal methods subject to the following priorities: (1) Slash production minimization, (2) slash utilization, (3) nonburning disposal, (4) silvicultural burning. Such alternative methods shall be evaluated as to the relative impact on air, water, and land pollution, public health, and their financial feasibility.

The department of natural resources shall not issue burning permits and shall revoke previously issued permits at any time in any area where the department of ecology or local board has declared a stage of impaired air quality as defined in RCW 70.94.473 (as recodified by this act).

Sec. 1145. RCW 70.94.6540 and 2009 c 118 s 503 are each amended to read as follows:

In the regulation of outdoor burning not included in RCW 70.94.6534 (as recodified by this act) requiring permits from the department of natural resources, said department and the state, local, or regional air pollution control authorities will cooperate in regulating such burning so as to minimize insofar as possible duplicate inspections and separate permits while still accomplishing the objectives and responsibilities of the respective agencies. The department of natural resources shall include any local authority's burning regulations with permits issued where applicable pursuant to RCW 70.94.6512, 70.94.6514, 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, and 70.94.6526 (as recodified by this act). The department shall develop agreements with all local authorities to coordinate regulations.

Permits shall be withheld by the department of natural resources when so requested by the department of ecology if a forecast, alert, warning, or emergency condition exists as defined in the episode criteria of the department of ecology.

Sec. 1146. RCW 70.94.6542 and 2009 c 118 s 504 are each amended to read as follows:

The department of natural resources and the department of ecology may adopt rules necessary to implement their respective responsibilities under the provisions of RCW 70.94.6528, 70.94.6530, 70.94.6532, 70.94.6534, 70.94.6536, 70.94.6538, 70.94.6540, 70.94.6542, and 70.94.6544 (as recodified by this act).

Sec. 1147. RCW 70.94.6546 and 2009 c 118 s 601 are each amended to read as follows:

(1) Aircraft crash rescue fire training activities meeting the following conditions do not require a permit under this section, or under RCW 70.94.6512, 70.94.6514, 70.94.6516, 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, and 70.94.6526 (as recodified by this act), from an air pollution control authority, the department, or any local entity with delegated permit authority:

(a) Firefighters participating in the training fires must be limited to those who provide firefighting support to an airport that is either certified by the federal aviation administration or operated in support of military or governmental activities;

(b) The fire training may not be conducted during an air pollution episode or any stage of impaired air quality declared under RCW 70.94.715 (as recodified by this act) for the area where training is to be conducted;

(c) The number of training fires allowed per year without a permit shall be the minimum number necessary to meet federal aviation administration or other federal safety requirements;

(d) The facility shall use current technology and be operated in a manner that will minimize, to the extent possible, the air contaminants generated during operation; and

(e) The organization conducting training shall notify both the: (i) Local fire district or fire department; and (ii) air pollution control authority, department of ecology, or local entity delegated permitting authority under RCW 70.94.6530 (as recodified by this act), having jurisdiction within the area where training is to be conducted before the commencement of aircraft fire training. Written approval from the department or a local air pollution control authority shall be obtained prior to the initial operation of aircraft crash rescue fire training. Such approval will be granted to fire training activities meeting the conditions in this subsection.

(2) Aircraft crash rescue fire training activities conducted in compliance with subsection (1) of this section are not subject to the prohibition, in RCW 70.94.6512(1) (as recodified by this act), of outdoor fires containing petroleum products and are not considered outdoor burning under RCW 70.94.6512, 70.94.6514, 70.94.6516, 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, and 70.94.6526 (as recodified by this act).

(3) Training to fight structural fires located outside urban growth areas in counties that plan under the requirements of RCW 36.70A.040 and outside of any city with a population of ten thousand or more in all other counties does not need a permit under this section from an air pollution control authority or the department of ecology, but must be conducted in accordance with RCW 52.12.150.

(4) Training to fight forest fires does not require a permit from an air pollution control authority or the department of ecology.

(5) To provide for firefighting instruction in instances not governed by subsections (1) through (3) of this section, or other actions to protect public health and safety, the department or a local air pollution control authority may issue permits that allow limited burning of prohibited materials listed in RCW 70.94.6512(1) (as recodified by this act).

Sec. 1148. RCW 70.94.6548 and 2009 c 118 s 701 are each amended to read as follows:

Consistent with RCW 70.94.6514 (as recodified by this act), outdoor burning may be allowed anywhere in the state for the exclusive purpose of managing storm or flood-related debris.

Sec. 1149. RCW 70.94.6552 and 2009 c 118 s 704 are each amended to read as follows:

Any person who proposes to set fires in the course of weed abatement shall obtain a permit from an air pollution control authority, the department of ecology, or a local entity delegated permitting authority under RCW 70.94.6530 (as recodified by this act). General permit criteria of statewide applicability shall be established by the department, by rule, after consultation with the various air pollution control authorities. Permits shall be issued under this section based on seasonal operations or by individual operations, or both. All permits shall be conditioned to insure that the public interest in air, water, and land pollution and safety to life and property is fully considered. In addition to any other requirements established by the department to protect air quality pursuant to other laws, applicants for permits must show that the setting of fires as requested is the most reasonable procedure to follow in safeguarding life or property under all circumstances or is otherwise reasonably necessary to successfully carry out the enterprise in which the applicant is engaged, or both. All burning permits will be designed to minimize air pollution insofar as practical. Nothing in this section relieves the applicant from obtaining permits, licenses, or other approvals required by any other law. An application for a permit to set fires in the course of weed abatement shall be acted upon within seven days from the date such application is filed.

Sec. 1150. RCW 70.94.6554 and 2009 c 118 s 705 are each amended to read as follows:

Consistent with RCW 70.94.6524 (as recodified by this act), neither a permit nor the payment of a fee shall be required for outdoor burning for the purpose of disposal of tumbleweeds blown by wind. Such burning shall not be conducted during an air pollution episode or any stage of impaired air quality declared under RCW 70.94.715 (as recodified by this act). This section shall only apply within counties with a population less than two hundred fifty thousand.

Sec. 1151. RCW 70.94.6556 and 2018 c 147 s 1 are each amended to read as follows:

(1) A city or town that is located partially inside a quarantine area for apple maggot (*Rhagoletis pomonella*) established by the Washington state department of agriculture may apply for a permit pursuant to RCW 70.94.6528 (as recodified by this act) for the burning of brush and yard waste generated within the city or town, provided that the city or town satisfies the following requirements:

(a) Burning must be conducted by city or town employees, by contractors under the supervision of city or town employees, or by the city or town fire department or other local fire officials;

(b) Burning must be conducted under the supervision of the city or town fire department or other local fire officials and in consultation with the department of

agriculture and the department of ecology or an air pollution control authority, as applicable;

(c) Burning must not be conducted more than four times per calendar year; and

(d) The city or town must issue a media advisory announcing any burning conducted under this section prior to engaging in any such burning.

(2) The department and the department of agriculture are directed to submit to the appropriate policy committees of the legislature no later than November 1, 2018, a report that addresses the available options for the processing and disposal of municipal yard waste generated in areas subject to the apple maggot quarantine, including:

(a) Techniques that neutralize any apple maggot larvae that may be contained within such yard waste;

(b) Identification of facilities that are capable of receiving such yard waste;

(c) Alternatives to outdoor burning, such as composting, chipping, biochar production, and biomass electrical generation; and

(d) A comparison of the costs of such alternatives.

(3) This section expires July 1, 2020.

Sec. 1152. RCW 70.94.715 and 2012 c 117 s 409 are each amended to read as follows:

The department of ecology is hereby authorized to develop an episode avoidance plan providing for the phased reduction of emissions wherever and whenever an air pollution episode is forecast. Such an episode avoidance plan shall conform with any applicable federal standards and shall be effective statewide. The episode avoidance plan may be implemented on an area basis in accordance with the occurrence of air pollution episodes in any given area.

The department of ecology may delegate authority to adopt source emission reduction plans and authority to implement all stages of occurrence up to and including the warning stage, and all intermediate stages up to the warning stage, in any area of the state, to the air pollution control authority with jurisdiction therein.

The episode avoidance plan, which shall be established by regulation in accordance with chapter 34.05 RCW, shall include, but not be limited to, the following:

(1) The designation of episode criteria and stages, the occurrence of which will require the carrying out of preplanned episode avoidance procedures. The stages of occurrence shall be (a) forecast, (b) alert, (c) warning, (d) emergency, and such intermediate stages as the department shall designate. "Forecast" means the presence of meteorological conditions that are conducive to accumulation of air contaminants and is the first stage of an episode. The department shall not call a forecast episode prior to the department or an authority calling a first stage impaired air quality condition as provided by RCW 70.94.473(1)(b) (as recodified by this act) or calling a single-stage impaired air quality condition as provided by RCW 70.94.473(~~(2)~~) (as recodified by this act). "Alert" means concentration of air contaminants at levels at which short-term health effects may occur, and is the second stage of an episode. "Warning" means concentrations are continuing to degrade, contaminant concentrations have reached a level which, if maintained, can result in damage to health, and additional control actions are needed and is the third level of an episode.

"Emergency" means the air quality is posing an imminent and substantial endangerment to public health and is the fourth level of an episode;

(2) The requirement that persons responsible for the operation of air contaminant sources prepare and obtain approval from the director of source emission reduction plans, consistent with good operating practice and safe operating procedures, for reducing emissions during designated episode stages;

(3) Provision for the director of the department of ecology or his or her authorized representative, or the air pollution control officer if implementation has been delegated, on the satisfaction of applicable criteria, to declare and terminate the forecast, alert, warning and all intermediate stages, up to the warning episode stage, such declarations constituting orders for action in accordance with applicable source emission reduction plans;

(4) Provision for the governor to declare and terminate the emergency stage and all intermediate stages above the warning episode stage, such declarations constituting orders in accordance with applicable source emission reduction plans;

(5) Provisions for enforcement by state and local police, personnel of the departments of ecology and social and health services, and personnel of local air pollution control agencies; and

(6) Provisions for reduction or discontinuance of emissions immediately, consistent with good operating practice and safe operating procedures, under an air pollution emergency as provided in RCW 70.94.720 (as recodified by this act).

Source emission reduction plans shall be considered orders of the department and shall be subject to appeal to the pollution control hearings board according to the procedure in chapter 43.21B RCW.

Sec. 1153. RCW 70.94.725 and 1971 ex.s. c 194 s 4 are each amended to read as follows:

Whenever any order has been issued pursuant to RCW 70.94.710 through 70.94.730 (as recodified by this act), the attorney general, upon request from the governor, the director of the department of ecology, an authorized representative of either, or the attorney for a local air pollution control authority upon request of the control officer, shall petition the superior court of the county in which is located the air contaminant source for which such order was issued for a temporary restraining order requiring the immediate reduction or discontinuance of emissions from such source.

Upon request of the party to whom a temporary restraining order is directed, the court shall schedule a hearing thereon at its earliest convenience, at which time the court may withdraw the restraining order or grant such temporary injunction as is reasonably necessary to prevent injury to the public health or safety.

Sec. 1154. RCW 70.94.730 and 1971 ex.s. c 194 s 5 are each amended to read as follows:

Orders issued to declare any stage of an air pollution episode avoidance plan under RCW 70.94.715 (as recodified by this act), and to declare an air pollution emergency, under RCW 70.94.720 (as recodified by this act), and orders to persons responsible for the operation of an air contaminant source to reduce or discontinue emissions, according to RCW 70.94.715 and 70.94.720 (as

recodified by this act) shall be effective immediately and shall not be stayed pending completion of review.

Sec. 1155. RCW 70.94.785 and 1973 1st ex.s. c 193 s 11 are each amended to read as follows:

Notwithstanding any provision of the law to the contrary, except RCW ((70.94.660 through 70.94.690)) 70.94.6534 through 70.94.6540 (as recodified by this act), the department of ecology, upon its approval of any plan (or part thereof) required or permitted under the federal clean air act, shall have the authority to enforce all regulatory provisions within such plan (or part thereof): PROVIDED, That departmental enforcement of any such provision which is within the power of an activated authority to enforce shall be initiated only, when with respect to any source, the authority is not enforcing the provisions and then only after written notice is given the authority.

Sec. 1156. RCW 70.94.805 and 1985 c 456 s 2 are each amended to read as follows:

As used in RCW 70.94.800 through ((70.94.825)) 70.94.820 (as recodified by this act), the following terms have the following meanings.

(1) "Acid deposition" means wet or dry deposition from the atmosphere of chemical compounds with a pH of less than 5.6.

(2) "Critical level of acid deposition and lake, stream, and soil acidification" means the level at which irreparable damage may occur unless corrective action is taken.

Sec. 1157. RCW 70.94.850 and 1984 c 164 s 1 are each amended to read as follows:

The department of ecology and the local boards may implement an emission credits banking program. For the purposes of this section, an emission credits banking program means a program whereby an air contaminant source which reduces emissions of a given air contaminant by an amount greater than that required by applicable law, regulation, or order is granted credit for a given amount, which credit shall be administered by a credit bank operated by the appropriate agency. The amount of the credit shall be determined by the department or local board with jurisdiction, but it shall be less than the amount of the emissions reduction. The credit may be used, traded, sold, or otherwise expended for purposes established by regulation of state or local agencies consistent with the provisions of the prevention of significant deterioration program under RCW 70.94.860 (as recodified by this act), the bubble program under RCW 70.94.155 (as recodified by this act), and the new source review program under RCW 70.94.152 (as recodified by this act), if there will be no net adverse impact on air quality.

Sec. 1158. RCW 70.94.892 and 2004 c 224 s 8 are each amended to read as follows:

(1) For fossil-fueled electric generation facilities having more than twenty-five thousand kilowatts station generating capability but less than three hundred fifty thousand kilowatts station generation capability, except for fossil-fueled floating thermal electric generation facilities under the jurisdiction of the energy facility site evaluation council pursuant to RCW 80.50.010, the department or authority shall implement a carbon dioxide mitigation program consistent with the requirements of chapter 80.70 RCW.

(2) For mitigation projects conducted directly by or under the control of the applicant, the department or local air authority shall approve or deny the mitigation plans, as part of its action to approve or deny an application submitted under RCW 70.94.152 (as recodified by this act) based upon whether or not the mitigation plan is consistent with the requirements of chapter 80.70 RCW.

(3) The department or authority may determine, assess, and collect fees sufficient to cover the costs to review and approve or deny the carbon dioxide mitigation plan components of an order of approval issued under RCW 70.94.152 (as recodified by this act). The department or authority may also collect fees sufficient to cover its additional costs to monitor conformance with the carbon dioxide mitigation plan components of the registration and air operating permit programs authorized in RCW 70.94.151 and 70.94.161 (as recodified by this act). The department or authority shall track its costs related to review, approval, and monitoring conformance with carbon dioxide mitigation plans.

Sec. 1159. RCW 70.94.960 and 1996 c 186 s 517 are each amended to read as follows:

The department may disburse matching grants from funds provided by the legislature from the air pollution control account, created in RCW 70.94.015 (as recodified by this act), to units of local government to partially offset the additional cost of purchasing "clean fuel" and/or operating "clean-fuel vehicles" provided that such vehicles are used for public transit. Publicly owned school buses are considered public transit for the purposes of this section. The department may also disburse grants to vocational-technical institutes for the purpose of establishing programs to certify clean-fuel vehicle mechanics. The department may also distribute grants to Washington State University for the purpose of furthering the establishment of clean fuel refueling infrastructure.

Sec. 1160. RCW 70.94.990 and 1991 c 199 s 604 are each amended to read as follows:

The department shall adopt rules to implement RCW 70.94.970 and 70.94.980 (as recodified by this act). Rules shall include but not be limited to minimum performance specifications for refrigerant extraction equipment, as well as procedures for enforcing RCW 70.94.970 and 70.94.980 (as recodified by this act).

Enforcement provisions adopted by the department shall not include penalties or fines in areas where equipment to collect or recycle regulated refrigerants is not readily available.

Sec. 1161. RCW 70.95.030 and 2010 1st sp.s. c 7 s 86 are each amended to read as follows:

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

- (1) "City" means every incorporated city and town.
- (2) "Commission" means the utilities and transportation commission.
- (3) "Composted material" means organic solid waste that has been subjected to controlled aerobic degradation at a solid waste facility in compliance with the requirements of this chapter. Natural decay of organic solid waste under uncontrolled conditions does not result in composted material.
- (4) "Department" means the department of ecology.
- (5) "Director" means the director of the department of ecology.

(6) "Disposal site" means the location where any final treatment, utilization, processing, or deposit of solid waste occurs.

(7) "Energy recovery" means a process operating under federal and state environmental laws and regulations for converting solid waste into usable energy and for reducing the volume of solid waste.

(8) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.

(9) "Incineration" means a process of reducing the volume of solid waste operating under federal and state environmental laws and regulations by use of an enclosed device using controlled flame combustion.

(10) "Inert waste landfill" means a landfill that receives only inert waste, as determined under RCW 70.95.065 (as recodified by this act), and includes facilities that use inert wastes as a component of fill.

(11) "Jurisdictional health department" means city, county, city-county, or district public health department.

(12) "Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.

(13) "Local government" means a city, town, or county.

(14) "Modify" means to substantially change the design or operational plans including, but not limited to, removal of a design element previously set forth in a permit application or the addition of a disposal or processing activity that is not approved in the permit.

(15) "Multiple-family residence" means any structure housing two or more dwelling units.

(16) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(17) "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan. Prior to the adoption of the local comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2) (as recodified by this act), local governments may identify recyclable materials by ordinance from July 23, 1989.

(18) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.

(19) "Residence" means the regular dwelling place of an individual or individuals.

(20) "Sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials, generated from a wastewater treatment system, that does not meet the requirements of chapter 70.95J RCW (as recodified by this act).

(21) "Soil amendment" means any substance that is intended to improve the physical characteristics of the soil, except composted material, commercial fertilizers, agricultural liming agents, unmanipulated animal manures, unmanipulated vegetable manures, food wastes, food processing wastes, and materials exempted by rule of the department, such as biosolids as defined in chapter 70.95J RCW (as recodified by this act) and wastewater as regulated in chapter 90.48 RCW.

(22) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

(23) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from solid wastes or the conversion of the energy in solid wastes to more useful forms or combinations thereof.

(24) "Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

(25) "Vehicle" includes every device physically capable of being moved upon a public or private highway, road, street, or watercourse and in, upon, or by which any person or property is or may be transported or drawn upon a public or private highway, road, street, or watercourse, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(26) "Waste-derived soil amendment" means any soil amendment as defined in this chapter that is derived from solid waste as defined in this section, but does not include biosolids or biosolids products regulated under chapter 70.95J RCW (as recodified by this act) or wastewaters regulated under chapter 90.48 RCW.

(27) "Waste reduction" means reducing the amount or toxicity of waste generated or reusing materials.

(28) "Yard debris" means plant material commonly created in the course of maintaining yards and gardens, and through horticulture, gardening, landscaping, or similar activities. Yard debris includes but is not limited to grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, vegetable garden debris, holiday trees, and tree prunings four inches or less in diameter.

Sec. 1162. RCW 70.95.065 and 2004 c 101 s 2 are each amended to read as follows:

(1) The department shall, as part of the minimum functional standards for solid waste handling required under RCW 70.95.060 (as recodified by this act), develop specific criteria for the types of solid wastes that are allowed to be received by inert waste landfills that seek to continue operation after February 10, 2003.

(2) The criteria for inert waste developed under this section must, at a minimum, contain a list of substances that an inert waste landfill located in a county with fewer than forty-five thousand residents is permitted to receive if it was operational before February 10, 2003, and is located at a site with a five-year annual rainfall of twenty-five inches or less. The substances permitted for the inert waste landfills satisfying the criteria listed in this subsection must include the following types of solid waste if the waste has not been tainted, through exposure from chemical, physical, biological, or radiological substances, such that it presents a threat to human health or the environment greater than that inherent to the material:

- (a) Cured concrete, including any embedded steel reinforcing and wood;
- (b) Asphaltic materials, including road construction asphalt;
- (c) Brick and masonry;
- (d) Ceramic materials produced from fired clay or porcelain;

- (e) Glass;
- (f) Stainless steel and aluminum; and
- (g) Other materials as defined in chapter 173-350 WAC.

(3) The department shall work with the owner or operators of landfills that do not meet the minimum functional standards for inert waste landfills to explore and implement appropriate means of transition into a limited purpose landfill that is able to accept additional materials as specified in WAC 173-350-400.

Sec. 1163. RCW 70.95.090 and 2019 c 255 s 4 and 2019 c 166 s 6 are each reenacted and amended to read as follows:

Each county and city comprehensive solid waste management plan shall include the following:

(1) A detailed inventory and description of all existing solid waste handling facilities including an inventory of any deficiencies in meeting current solid waste handling needs.

(2) The estimated long-range needs for solid waste handling facilities projected twenty years into the future.

(3) A program for the orderly development of solid waste handling facilities in a manner consistent with the plans for the entire county which shall:

(a) Meet the minimum functional standards for solid waste handling adopted by the department and all laws and regulations relating to air and water pollution, fire prevention, flood control, and protection of public health;

(b) Take into account the comprehensive land use plan of each jurisdiction;

(c) Contain a six year construction and capital acquisition program for solid waste handling facilities; and

(d) Contain a plan for financing both capital costs and operational expenditures of the proposed solid waste management system.

(4) A program for surveillance and control.

(5) A current inventory and description of solid waste collection needs and operations within each respective jurisdiction which shall include:

(a) Any franchise for solid waste collection granted by the utilities and transportation commission in the respective jurisdictions including the name of the holder of the franchise and the address of his or her place of business and the area covered by the franchise;

(b) Any city solid waste operation within the county and the boundaries of such operation;

(c) The population density of each area serviced by a city operation or by a franchised operation within the respective jurisdictions;

(d) The projected solid waste collection needs for the respective jurisdictions for the next six years.

(6) A comprehensive waste reduction and recycling element that, in accordance with the priorities established in RCW 70.95.010 (as recodified by this act), provides programs that (a) reduce the amount of waste generated, (b) provide incentives and mechanisms for source separation, and (c) establish recycling opportunities for the source separated waste.

(7) The waste reduction and recycling element shall include the following:

(a) Waste reduction strategies, which may include strategies to reduce wasted food and food waste that are designed to achieve the goals established in

RCW 70.95.815(1) (as recodified by this act) and that are consistent with the plan developed in RCW 70.95.815(3) (as recodified by this act);

(b) Source separation strategies, including:

(i) Programs for the collection of source separated materials from residences in urban and rural areas. In urban areas, these programs shall include collection of source separated recyclable materials from single and multiple-family residences, unless the department approves an alternative program, according to the criteria in the planning guidelines. Such criteria shall include: Anticipated recovery rates and levels of public participation, availability of environmentally sound disposal capacity, access to markets for recyclable materials, unreasonable cost impacts on the ratepayer over the six-year planning period, utilization of environmentally sound waste reduction and recycling technologies, and other factors as appropriate. In rural areas, these programs shall include but not be limited to drop-off boxes, buy-back centers, or a combination of both, at each solid waste transfer, processing, or disposal site, or at locations convenient to the residents of the county. The drop-off boxes and buy-back centers may be owned or operated by public, nonprofit, or private persons;

(ii) Programs to monitor the collection of source separated waste at nonresidential sites where there is sufficient density to sustain a program;

(iii) Programs to collect yard waste and food waste, if the county or city submitting the plan finds that there are adequate markets or capacity for composted yard waste and food waste within or near the service area to consume the majority of the material collected; and

(iv) Programs to educate and promote the concepts of waste reduction and recycling;

(c) Recycling strategies, including a description of markets for recyclables, a review of waste generation trends, a description of waste composition, a discussion and description of existing programs and any additional programs needed to assist public and private sector recycling, and an implementation schedule for the designation of specific materials to be collected for recycling, and for the provision of recycling collection services;

(d) Other information the county or city submitting the plan determines is necessary.

(8) An assessment of the plan's impact on the costs of solid waste collection. The assessment shall be prepared in conformance with guidelines established by the utilities and transportation commission. The commission shall cooperate with the Washington state association of counties and the association of Washington cities in establishing such guidelines.

(9) A review of potential areas that meet the criteria as outlined in RCW 70.95.165 (as recodified by this act).

(10) A contamination reduction and outreach plan. The contamination reduction and outreach plan must address reducing contamination in recycling. Except for counties with a population of twenty-five thousand or fewer, by July 1, 2021, a contamination reduction and outreach plan must be included in each solid waste management plan by a plan amendment or included when revising or updating a solid waste management plan developed under this chapter. Jurisdictions may adopt the state's contamination reduction and outreach plan as developed under RCW 70.95.100 (as recodified by this act) in lieu of creating

their own plan. A recycling contamination reduction and outreach plan must include the following:

(a) A list of actions for reducing contamination in recycling programs for single-family and multiple-family residences, commercial locations, and drop boxes depending on the jurisdictions system components;

(b) A list of key contaminants identified by the jurisdiction or identified by the department;

(c) A discussion of problem contaminants and the contaminants' impact on the collection system;

(d) An analysis of the costs and other impacts associated with contaminants to the recycling system; and

(e) An implementation schedule and details of how outreach is to be conducted. Contamination reduction education methods may include sharing community-wide messaging through newsletters, articles, mailers, social media, web sites, or community events, informing recycling drop box customers about contamination, and improving signage.

Sec. 1164. RCW 70.95.092 and 1989 c 431 s 4 are each amended to read as follows:

Levels of service shall be defined in the waste reduction and recycling element of each local comprehensive solid waste management plan and shall include the services set forth in RCW 70.95.090 (as recodified by this act). In determining which service level is provided to residential and nonresidential waste generators in each community, counties and cities shall develop clear criteria for designating areas as urban or rural. In designating urban areas, local governments shall consider the planning guidelines adopted by the department, total population, population density, and any applicable land use or utility service plans.

Sec. 1165. RCW 70.95.095 and 2016 c 119 s 3 are each amended to read as follows:

Upon receipt by the department of a preliminary draft plan as provided in RCW 70.95.094 (as recodified by this act), the department shall immediately provide a copy of the preliminary draft plan to the department of agriculture. Within forty-five days after receiving the preliminary draft plan, the department of agriculture shall review the preliminary draft plan for compliance with chapter 17.24 RCW and the rules adopted under that chapter. The department of agriculture shall advise the local government submitting the preliminary draft plan and the department of the result of the review.

Sec. 1166. RCW 70.95.100 and 2019 c 166 s 7 are each amended to read as follows:

(1) The department or the commission, as appropriate, shall provide to counties and cities technical assistance including, but not limited to, planning guidelines, in the preparation, review, and revision of solid waste management plans required by this chapter. Guidelines prepared under this section shall be consistent with the provisions of this chapter. Guidelines for the preparation of the waste reduction and recycling element of the comprehensive solid waste management plan shall be completed by the department by March 15, 1990. These guidelines shall provide recommendations to local government on materials to be considered for designation as recyclable materials. The state solid

waste management plan prepared pursuant to RCW 70.95.260 (as recodified by this act) shall be consistent with these guidelines.

(2) The department shall be responsible for development and implementation of a comprehensive statewide public information program designed to encourage waste reduction, source separation, and recycling by the public. The department shall operate a toll free hotline to provide the public information on waste reduction and recycling.

(3) The department shall provide technical assistance to local governments in the development and dissemination of informational materials and related activities to assure recognition of unique local waste reduction and recycling programs.

(4)(a) The department must create and implement a statewide recycling contamination reduction and outreach plan based on best management practices for recycling, developed with stakeholder input by July 1, 2020. Jurisdictions may use the statewide plan in lieu of developing their own plan.

(b) The department must provide technical assistance and create guidance to help local jurisdictions determine the extent of contamination in their regional recycling and to develop contamination reduction and outreach plans. Contamination means any material not included on the local jurisdiction's acceptance list.

(c) Contamination reduction education methods may include sharing community-wide messaging through newsletters, articles, mailers, social media, web sites, or community events, informing recycling drop box customers about contamination, and improving signage.

(d) The department must cite the sources of information that it relied upon, including any peer-reviewed science, in the development of the best management practices for recycling under (a) of this subsection and the guidance developed under (b) of this subsection.

(5) Local governments shall make all materials and information developed with the assistance grants provided under RCW 70.95.130 (as recodified by this act) available to the department for potential use in other areas of the state.

Sec. 1167. RCW 70.95.110 and 1991 c 298 s 4 are each amended to read as follows:

(1) The comprehensive county solid waste management plans and any comprehensive city solid waste management plans prepared in accordance with RCW 70.95.080 (as recodified by this act) shall be maintained in a current condition and reviewed and revised periodically by counties and cities as may be required by the department. Upon each review such plans shall be extended to show long-range needs for solid waste handling facilities for twenty years in the future, and a revised construction and capital acquisition program for six years in the future. Each revised solid waste management plan shall be submitted to the department.

Each plan shall be reviewed and revised within five years of July 1, 1984, and thereafter shall be reviewed, and revised if necessary according to the schedule provided in subsection (2) of this section.

(2) Cities and counties preparing solid waste management plans shall submit the waste reduction and recycling element required in RCW 70.95.090 (as recodified by this act) and any revisions to other elements of its comprehensive solid waste management plan to the department no later than:

(a) July 1, 1991, for class one areas: PROVIDED, That portions relating to multiple-family residences shall be submitted no later than July 1, 1992;

(b) July 1, 1992, for class two areas; and

(c) July 1, 1994, for class three areas.

Thereafter, each plan shall be reviewed and revised, if necessary, at least every five years. Nothing in chapter 431, Laws of 1989 shall prohibit local governments from submitting a plan prior to the dates listed in this subsection.

(3) The classes of areas are defined as follows:

(a) Class one areas are the counties of Spokane, Snohomish, King, Pierce, and Kitsap and all the cities therein.

(b) Class two areas are all other counties located west of the crest of the Cascade mountains and all the cities therein.

(c) Class three areas are the counties east of the crest of the Cascade mountains and all the cities therein, except for Spokane county.

(4) Cities and counties shall begin implementing the programs to collect source separated materials no later than one year following the adoption and approval of the waste reduction and recycling element and these programs shall be fully implemented within two years of approval.

Sec. 1168. RCW 70.95.130 and 2019 c 166 s 8 are each amended to read as follows:

Any county may apply to the department on a form prescribed thereby for financial aid for the preparation and implementation of the comprehensive county plan for solid waste management required by RCW 70.95.080 (as recodified by this act), including contamination reduction and outreach plans. Any city electing to prepare an independent city plan, a joint city plan, or a joint county-city plan for solid waste management for inclusion in the county comprehensive plan may apply for financial aid for such purpose through the county. Every city application for financial aid for planning shall be filed with the county auditor and shall be included as a part of the county's application for financial aid. Any city preparing an independent plan shall provide for disposal sites wholly within its jurisdiction.

The department shall allocate to the counties and cities applying for financial aid for planning and implementation, including contamination reduction and outreach plan development and implementation, such funds as may be available pursuant to legislative appropriations or from any federal grants for such purpose.

The department shall determine priorities and allocate available funds among the counties and cities applying for aid according to criteria established by regulations of the department considering population, urban development, environmental effects of waste disposal, existing waste handling practices, and the local justification of their proposed expenditures.

Sec. 1169. RCW 70.95.150 and 1969 ex.s. c 134 s 15 are each amended to read as follows:

Upon the allocation of planning funds as provided in RCW 70.95.130 (as recodified by this act), the department shall enter into a contract with each county receiving a planning grant. The contract shall include such provisions as the director may deem necessary to assure the proper expenditure of such funds

including allocations made to cities. The sum allocated to a county shall be paid to the treasurer of such county.

Sec. 1170. RCW 70.95.160 and 1989 c 431 s 10 are each amended to read as follows:

Each county, or any city, or jurisdictional board of health shall adopt regulations or ordinances governing solid waste handling implementing the comprehensive solid waste management plan covering storage, collection, transportation, treatment, utilization, processing and final disposal including but not limited to the issuance of permits and the establishment of minimum levels and types of service for any aspect of solid waste handling. County regulations or ordinances adopted regarding levels and types of service shall not apply within the limits of any city where the city has by local ordinance determined that the county shall not exercise such powers within the corporate limits of the city. Such regulations or ordinances shall assure that solid waste storage and disposal facilities are located, maintained, and operated in a manner so as properly to protect the public health, prevent air and water pollution, are consistent with the priorities established in RCW 70.95.010 (as recodified by this act), and avoid the creation of nuisances. Such regulations or ordinances may be more stringent than the minimum functional standards adopted by the department. Regulations or ordinances adopted by counties, cities, or jurisdictional boards of health shall be filed with the department.

Nothing in this section shall be construed to authorize the operation of a solid waste collection system by counties.

Sec. 1171. RCW 70.95.167 and 1991 c 319 s 402 are each amended to read as follows:

(1) Each local solid waste advisory committee shall conduct one or more meetings for the purpose of determining how local private recycling and solid waste collection businesses may participate in the development and implementation of programs to collect source separated materials from residences, and to process and market materials collected for recycling. The meetings shall include local private recycling businesses, private solid waste collection companies operating within the jurisdiction, and the local solid waste planning agencies. The meetings shall be held during the development of the waste reduction and recycling element or no later than one year prior to the date that a jurisdiction is required (~~((to))~~) to submit the element under RCW 70.95.110(2) (as recodified by this act).

(2) The meeting requirement under subsection (1) of this section shall apply whenever a city or county develops or amends the waste reduction and recycling element required under this chapter. Jurisdictions having approved waste reduction and recycling elements or having initiated a process for the selection of a service provider as of May 21, 1991, do not have to comply with the requirements of subsection (1) of this section until the next revisions to the waste reduction and recycling element are made or required.

(3) After the waste reduction and recycling element is approved by the local legislative authority but before it is submitted to the department for approval, the local solid waste advisory committee shall hold at least one additional meeting to review the element.

(4) For the purpose of this section, "private recycling business" means any private for-profit or private not-for-profit business that engages in the processing and marketing of recyclable materials.

Sec. 1172. RCW 70.95.170 and 2009 c 178 s 4 are each amended to read as follows:

Except as provided otherwise in RCW 70.95.300, 70.95.305, 70.95.306, 70.95.310, or 70.95.330 (as recodified by this act), after approval of the comprehensive solid waste plan by the department no solid waste handling facility or facilities shall be maintained, established, or modified until the county, city, or other person operating such site has obtained a permit pursuant to RCW 70.95.180 or 70.95.190 (as recodified by this act).

Sec. 1173. RCW 70.95.185 and 1984 c 123 s 8 are each amended to read as follows:

Every permit issued by a jurisdictional health department under RCW 70.95.180 (as recodified by this act) shall be reviewed by the department to ensure that the proposed site or facility conforms with:

(1) All applicable laws and regulations including the minimal functional standards for solid waste handling; and

(2) The approved comprehensive solid waste management plan.

The department shall review the permit within thirty days after the issuance of the permit by the jurisdictional health department. The department may appeal the issuance of the permit by the jurisdictional health department to the pollution control hearings board, as described in chapter 43.21B RCW, for noncompliance with subsection (1) or (2) of this section.

No permit issued pursuant to RCW 70.95.180 (as recodified by this act) after June 7, 1984, shall be considered valid unless it has been reviewed by the department.

Sec. 1174. RCW 70.95.190 and 1998 c 156 s 4 are each amended to read as follows:

(1) Every permit for an existing solid waste handling facility issued pursuant to RCW 70.95.180 (as recodified by this act) shall be renewed at least every five years on a date established by the jurisdictional health department having jurisdiction of the site and as specified in the permit. If a permit is to be renewed for longer than one year, the local jurisdictional health department may hold a public hearing before making such a decision. Prior to renewing a permit, the health department shall conduct a review as it deems necessary to assure that the solid waste handling facility or facilities located on the site continues to meet minimum functional standards of the department, applicable local regulations, and are not in conflict with the approved solid waste management plan. A jurisdictional health department shall approve or disapprove a permit renewal within forty-five days of conducting its review. The department shall review and may appeal the renewal as set forth for the approval of permits in RCW 70.95.185 (as recodified by this act).

(2) The jurisdictional board of health may establish reasonable fees for permits reviewed under this section. All permit fees collected by the health department shall be deposited in the treasury and to the account from which the health department's operating expenses are paid.

Sec. 1175. RCW 70.95.205 and 2016 c 119 s 7 are each amended to read as follows:

(1) Waste-derived soil amendments that meet the standards and criteria in this section may apply for exemption from solid waste permitting as required under RCW 70.95.170 (as recodified by this act). The application shall be submitted to the department in a format determined by the department or an equivalent format. The application shall include:

(a) Analytical data showing that the waste-derived soil amendments meet standards established under RCW 15.54.800; and

(b) Other information deemed appropriate by the department to protect human health and the environment.

(2) After receipt of an application, the department shall review it to determine whether the application is complete, and forward a copy of the complete application to all interested jurisdictional health departments and the department of agriculture for review and comment. Within forty-five days, the jurisdictional health departments and the department of agriculture shall forward their comments and any other information they deem relevant to the department, which shall then give final approval or disapproval of the application. The department of agriculture's comments must be limited to addressing whether approving the application risks spreading disease, plant pathogens, or pests to areas that are not under a quarantine, as defined in RCW 17.24.007. Every complete application shall be approved or disapproved by the department within ninety days after receipt.

(3) The department, after providing opportunity for comments from the jurisdictional health departments and the department of agriculture, may at any time revoke an exemption granted under this section if the quality or use of the waste-derived soil amendment changes or the management, storage, or end use of the waste-derived soil amendment constitutes a threat to human health or the environment.

(4) Any aggrieved party may appeal the determination by the department in subsection (2) or (3) of this section to the pollution control hearings board.

Sec. 1176. RCW 70.95.207 and 2018 c 196 s 24 are each amended to read as follows:

An authorized collector regulated under chapter 69.48 RCW is not required to obtain a permit under RCW 70.95.170 (as recodified by this act) unless the authorized collector is required to obtain a permit under RCW 70.95.170 (as recodified by this act) as a consequence of activities that are not directly associated with the collection facility's activities under chapter 69.48 RCW.

Sec. 1177. RCW 70.95.218 and 1993 c 286 s 2 are each amended to read as follows:

(1) At least sixty days prior to receiving solid waste generated from outside of the state, the operator of a solid waste disposal site facility shall report to the department the types and quantities of waste to be received from an out-of-state source. The department shall develop guidelines for reporting this information. The guidelines shall provide for less than sixty days notice for shipments of waste made on a short-term or emergency basis. The requirements of this subsection shall take effect upon completion of the guidelines.

(2) Upon notice under subsection (1) of this section, the department shall identify all activities and costs necessary to ensure that solid waste generated out-of-state meets standards relating to solid waste reduction, recycling, and management substantially equivalent to those required of solid waste generated within the state. The department may assess a fee on the out-of-state waste sufficient to recover the actual costs incurred in ensuring that the out-of-state waste meets equivalent state standards. The department may delegate, to a local health department, authority to implement the activities identified by the department under this subsection. All money received from fees imposed under this subsection shall be deposited into the ~~((solid waste management))~~ ~~((created by RCW 70.95.800))~~ used to fund the activities required by this section, and shall be used solely for the activities required by this section.

(3) The department may prohibit in-state disposal of solid waste generated from outside of the state, unless the generators of the waste meet: (a) Waste reduction and recycling requirements substantially equivalent to those applicable in Washington state; and (b) solid waste handling standards substantially equivalent to those applicable in Washington state.

(4) The department may adopt rules to implement this section.

Sec. 1178. RCW 70.95.240 and 2011 c 279 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this section or at a solid waste disposal site for which there is a valid permit, after the adoption of regulations or ordinances by any county, city, or jurisdictional board of health providing for the issuance of permits as provided in RCW 70.95.160 (as recodified by this act), it is unlawful for any person to dump or deposit or permit the dumping or depositing of any solid waste onto or under the surface of the ground or into the waters of this state.

(2) This section does not:

(a) Prohibit a person from dumping or depositing solid waste resulting from his or her own activities onto or under the surface of ground owned or leased by him or her when such action does not violate statutes or ordinances, or create a nuisance;

(b) Apply to a person using a waste-derived soil amendment that has been approved by the department under RCW 70.95.205 (as recodified by this act); or

(c) Apply to the application of commercial fertilizer that has been registered with the department of agriculture as provided in RCW 15.54.325, and that is applied in accordance with the standards established in RCW 15.54.800(3).

(3)(a) It is a class 3 civil infraction as defined in RCW 7.80.120 for a person to litter in an amount less than or equal to one cubic foot.

(b)(i) It is a misdemeanor for a person to litter in an amount greater than one cubic foot but less than one cubic yard.

(ii) A person found to have littered in an amount greater than one cubic foot, but less than one cubic yard, shall also pay a litter cleanup restitution payment. This payment must be the greater of twice the actual cost of removing and properly disposing of the litter, or fifty dollars per cubic foot of litter.

(iii) The court shall distribute one-half of the restitution payment to the landowner where the littering occurred and one-half of the restitution payment to the jurisdictional health department investigating the incident. If the landowner provided written permission authorizing the littering on his or her property or

assisted a person with littering on the landowner's property, the landowner is not entitled to any restitution ordered by the court and the full litter cleanup restitution payment must be provided to the jurisdictional health department investigating the incident.

(iv) A jurisdictional health department receiving all or a portion of a litter cleanup restitution payment must use the payment as follows:

(A) One-half of the payment may be used by the jurisdictional health department in the fulfillment of its responsibilities under this chapter; and

(B) One-half of the payment must be used to assist property owners located within the jurisdiction of the health department with the removal and proper disposal of litter in instances when the person responsible for the illegal dumping of the solid waste cannot be determined.

(v) The court may, in addition to the litter cleanup restitution payment, order the person to remove and properly dispose of the litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property. The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section if the person removes and properly disposes of the litter.

(c)(i) It is a gross misdemeanor for a person to litter in an amount of one cubic yard or more.

(ii) A person found to have littered in an amount greater than one cubic yard shall also pay a litter cleanup restitution payment. This payment must be the greater of twice the actual cost of removing and properly disposing of the litter, or one hundred dollars per cubic foot of litter.

(iii) The court shall distribute one-half of the restitution payment to the landowner where the littering occurred and one-half of the restitution payment to the jurisdictional health department investigating the incident. If the landowner provided written permission authorizing the littering on his or her property or assisted a person with littering on the landowner's property, the landowner is not entitled to any restitution ordered by the court and the full litter cleanup restitution payment must be provided to the jurisdictional health department investigating the incident.

(iv) A jurisdictional health department receiving all or a portion of a litter cleanup restitution payment must use the payment as follows:

(A) One-half of the payment may be used by the jurisdictional health department in the fulfillment of its responsibilities under this chapter; and

(B) One-half of the payment must be used to assist property owners located within the jurisdiction of the health department with the removal and proper disposal of litter in instances when the person responsible for the illegal dumping of the solid waste cannot be determined.

(v) The court may, in addition to the litter cleanup restitution payment, order the person to remove and properly dispose of the litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property. The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section if the person removes and properly disposes of the litter.

(4) If a junk vehicle is abandoned in violation of this chapter, RCW 46.55.230 governs the vehicle's removal, disposal, and sale, and the penalties that may be imposed against the person who abandoned the vehicle.

(5) When enforcing this section, the enforcing authority must take reasonable action to determine and identify the person responsible for illegally dumping solid waste before requiring the owner or lessee of the property where illegal dumping of solid waste has occurred to remove and properly dispose of the litter on the site.

Sec. 1179. RCW 70.95.250 and 1969 ex.s. c 134 s 25 are each amended to read as follows:

Whenever solid wastes dumped in violation of RCW 70.95.240 (as recodified by this act) contain three or more items bearing the name of one individual, there shall be a rebuttable presumption that the individual whose name appears on such items committed the unlawful act of dumping.

Sec. 1180. RCW 70.95.270 and 1994 c 257 s 16 are each amended to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW (as recodified by this act), or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW (as recodified by this act). The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW (as recodified by this act), or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090 (as recodified by this act).

Sec. 1181. RCW 70.95.280 and 1989 c 431 s 13 are each amended to read as follows:

The department of ecology shall determine the best management practices for categories of solid waste in accordance with the priority solid waste management methods established in RCW 70.95.010 (as recodified by this act). In order to make this determination, the department shall conduct a comprehensive solid waste stream analysis and evaluation. Following establishment of baseline data resulting from an initial in-depth analysis of the waste stream, the department shall develop a less intensive method of monitoring the disposed waste stream including, but not limited to, changes in the amount of waste generated and waste type. The department shall monitor curbside collection programs and other waste segregation and disposal technologies to determine, to the extent possible, the effectiveness of these programs in terms of cost and participation, their applicability to other locations, and their implications regarding rules adopted under this chapter. Persons who collect solid waste shall annually report to the department the types and quantities of solid waste that are collected and where it is delivered. The department shall adopt guidelines for reporting and for keeping proprietary information confidential.

Sec. 1182. RCW 70.95.285 and 1988 c 184 s 2 are each amended to read as follows:

The comprehensive, statewide solid waste stream analysis under RCW 70.95.280 (as recodified by this act) shall be based on representative solid waste generation areas and solid waste generation sources within the state. The following information and evaluations shall be included:

- (1) Solid waste generation rates for each category;
- (2) The rate of recycling being achieved within the state for each category of solid waste;
- (3) The current and potential rates of solid waste reduction within the state;
- (4) A technological assessment of current solid waste reduction and recycling methods and systems, including cost/benefit analyses;
- (5) An assessment of the feasibility of segregating solid waste at: (a) The original source, (b) transfer stations, and (c) the point of final disposal;
- (6) A review of methods that will increase the rate of solid waste reduction; and
- (7) An assessment of new and existing technologies that are available for solid waste management including an analysis of the associated environmental risks and costs.

The data required by the analysis under this section shall be kept current and shall be available to local governments and the waste management industry.

Sec. 1183. RCW 70.95.290 and 1988 c 184 s 3 are each amended to read as follows:

(1) The evaluation of the solid waste stream required in RCW 70.95.280 (as recodified by this act) shall include the following elements:

(a) The department shall determine which management method for each category of solid waste will have the least environmental impact; and

(b) The department shall evaluate the costs of various management options for each category of solid waste, including a review of market availability, and shall take into consideration the economic impact on affected parties;

(c) Based on the results of (a) and (b) of this subsection, the department shall determine the best management for each category of solid waste. Different management methods for the same categories of waste may be developed for different parts of the state.

(2) The department shall give priority to evaluating categories of solid waste that, in relation to other categories of solid waste, comprise a large volume of the solid waste stream or present a high potential of harm to human health. At a minimum the following categories of waste shall be evaluated:

(a) By January 1, 1989, yard waste and other biodegradable materials, paper products, disposable diapers, and batteries; and

(b) By January 1, 1990, metals, glass, plastics, styrofoam or rigid lightweight cellular polystyrene, and tires.

Sec. 1184. RCW 70.95.295 and 1988 c 184 s 4 are each amended to read as follows:

The department shall incorporate the information from the analysis and evaluation conducted under RCW 70.95.280 through 70.95.290 (as recodified by this act) to the state solid waste management plan under RCW 70.95.260 (as recodified by this act). The plan shall be revised periodically as the evaluation and analysis is updated.

Sec. 1185. RCW 70.95.315 and 2016 c 119 s 8 are each amended to read as follows:

(1) The department may assess a civil penalty in an amount not to exceed one thousand dollars per day per violation to any person exempt from solid waste permitting in accordance with RCW 70.95.205, 70.95.300, 70.95.305,

70.95.306, or 70.95.330 (as recodified by this act) who fails to comply with the terms and conditions of the exemption. Each such violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation. The penalty provided in this section shall be imposed pursuant to RCW 43.21B.300.

(2) If a person violates a provision of any of the sections referenced in subsection (1) of this section, the department may issue an appropriate order to ensure compliance with the conditions of the exemption. The order may be appealed pursuant to RCW 43.21B.310.

Sec. 1186. RCW 70.95.330 and 2009 c 178 s 1 are each amended to read as follows:

(1) An anaerobic digester that complies with the conditions specified in this section is exempt from the permitting requirements of this chapter. To qualify for the exemption, an anaerobic digester must meet the following conditions:

(a) The owner or operator must provide the department or the jurisdictional health department with at least thirty days' notice of intent to operate under the conditions specified in this section and comply with any guidelines issued under subsection (2) of this section;

(b) The anaerobic digester must process at least fifty percent livestock manure by volume;

(c) The anaerobic digester may process no more than thirty percent imported organic waste-derived material by volume, and must comply with subsection (3) of this section;

(d) The anaerobic digester must comply with design and operating standards in the natural resources conservation service's conservation practice standard code 366 in effect as of July 26, 2009;

(e) Digestate must:

(i) Be managed in accordance with a dairy nutrient management plan under chapter 90.64 RCW that includes elements addressing management and use of digestate;

(ii) Meet compost quality standards concerning pathogens, stability, nutrient testing, and metals before it is distributed for off-site use, or be sent to an off-site permitted compost facility for further treatment to meet compost quality standards; or

(iii) Be processed or managed in an alternate manner approved by the department;

(f) The owner or operator must allow inspection by the department or jurisdictional health department at reasonable times to verify compliance with the conditions specified in this section; and

(g) The owner or operator must submit an annual report to the department or the jurisdictional health department concerning use of nonmanure material in the anaerobic digester and any required compliance testing.

(2) By August 1, 2009, the department and the department of agriculture, in consultation with the department of health, shall make available to anaerobic digester owners and operators clearly written guidelines for the anaerobic codigestion of livestock manure and organic waste-derived material. The guidelines must explain the steps necessary for an owner or operator to meet the conditions specified in this section for an exemption from the permitting requirements of this chapter.

(3) Any imported organic waste-derived material must:

(a) Be preconsumer in nature;

(b) Be fed into the anaerobic digester within thirty-six hours of receipt at the anaerobic digester;

(c) If it is likely to contain animal by-products, be previously source-separated at a facility licensed to process food by the United States department of agriculture, the United States food and drug administration, the Washington state department of agriculture, or other applicable regulatory agency;

(d) If it contains bovine processing waste, be derived from animals approved by the United States department of agriculture food safety and inspection service and not contain any specified risk material;

(e) If it contains sheep carcasses or sheep processing waste, not be fed into the anaerobic digester;

(f) Be stored and handled in a manner that protects surface water and groundwater and complies with best management practices;

(g) Be received or stored in structures that:

(i) Comply with the natural resources conservation service's conservation practice standard code 313 in effect as of July 26, 2009;

(ii) Are certified to be effective by a representative of the natural resources conservation service; or

(iii) Meet applicable construction industry standards adopted by the American concrete institute or the American institute of steel construction and in effect as of July 26, 2009; and

(h) Be managed to prevent migration of nuisance odors beyond property boundaries and minimize attraction of flies, rodents, and other vectors.

(4) Digestate that is managed in accordance with a dairy nutrient management plan under chapter 90.64 RCW that includes elements addressing management and use of digestate shall no longer be considered a solid waste. Use of digestate from an anaerobic digester that complies with the conditions specified in this section is exempt from the permitting requirements of this chapter.

(5) An anaerobic digester that does not comply with the conditions specified in this section may be subject to the permitting requirements of this chapter. In addition, violations of the conditions specified in this section are subject to provisions in RCW 70.95.315 (as recodified by this act).

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

(a) "Anaerobic digester" means a vessel that processes organic material into biogas and digestate using microorganisms in a decomposition process within a closed, oxygen-free container.

(b) "Best management practices" means managerial practices that prevent or reduce water pollution.

(c) "Digestate" means both solid and liquid substances that remain following anaerobic digestion of organic material in an anaerobic digester.

(d) "Imported" means originating off of the farm or other site where the anaerobic digester is being operated.

(e) "Organic waste-derived material" has the same meaning as defined in RCW 15.54.270 and any other organic wastes approved by the department,

except for organic waste-derived material collected through municipal commercial and residential solid waste collection programs.

Sec. 1187. RCW 70.95.400 and 2005 c 394 s 4 are each amended to read as follows:

(1) For the purposes of this section and RCW 70.95.410 (as recodified by 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.

Sec. 1188. RCW 70.95.420 and 2005 c 394 s 6 are each amended to read as follows:

Any person damaged by a violation of RCW 70.95.400 through 70.95.440 (as recodified by 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.

Sec. 1189. RCW 70.95.430 and 2005 c 394 s 7 are each amended 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 (as recodified by this act), must notify the department in writing within thirty days prior to operation, or ninety days from July 24, 2005, 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 (as recodified by this act), 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) (as recodified by this act); 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) (as recodified by this act).

(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 (as recodified by this act) or completing a notification under this section is subject to a civil penalty of up to one thousand dollars per violation.

Sec. 1190. RCW 70.95.510 and 2009 c 261 s 2 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. The fee imposed in this section must 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) (as recodified by this act) must 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.

Sec. 1191. RCW 70.95.530 and 2014 c 76 s 6 are each amended to read as follows:

(1) Moneys in the waste tire removal account may be appropriated to the department of ecology:

(a) To provide for funding to state and local governments for the removal of discarded vehicle tires from unauthorized tire dump sites; and

(b) To accomplish the other purposes of RCW 70.95.020 (as recodified by this act) as they relate to waste tire cleanup under this chapter.

(2) In spending funds in the account under this section, the department 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) The department shall provide on its web site a summary of state and local government efforts funded using the waste tire removal account, a list of authorized waste tire storage sites and transporters, and tire recycling and reuse rates in the state for each calendar year.

Sec. 1192. RCW 70.95.532 and 2017 3rd sp.s. c 25 s 10 are each amended to read as follows:

(1) All receipts from tire fees imposed under RCW 70.95.510 (as recodified by this act), except as provided in subsection (2) of this section, must be deposited in the waste tire removal account created under RCW 70.95.521 (as recodified by this act). 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.

(2) On September 1st of odd-numbered years, the state treasurer must transfer any cash balance in excess of one million dollars from the waste tire removal account created under RCW 70.95.521 (as recodified by this act) to the motor vehicle ~~((account fund))~~ fund for the purpose of road wear related maintenance on state and local public highways.

Sec. 1193. RCW 70.95.535 and 1989 c 431 s 93 are each amended to read as follows:

(1) Every person engaged in making retail sales of new replacement vehicle tires in this state shall retain ten percent of the collected one dollar fee. The moneys retained may be used for costs associated with the proper management of the waste vehicle tires by the retailer.

(2) The department of ecology will administer the funds for the purposes specified in RCW 70.95.020~~((5))~~ (6) (as recodified by this act) including, but not limited to:

(a) Making grants to local governments for pilot demonstration projects for on-site shredding and recycling of tires from unauthorized dump sites;

(b) Grants to local government for enforcement programs;

(c) Implementation of a public information and education program to include posters, signs, and informational materials to be distributed to retail tire sales and tire service outlets;

(d) Product marketing studies for recycled tires and alternatives to land disposal.

Sec. 1194. RCW 70.95.550 and 1988 c 250 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 70.95.555 through 70.95.565 (as recodified by this act).

(1) "Storage" or "storing" means the placing of more than eight hundred waste tires in a manner that does not constitute final disposal of the waste tires.

(2) "Transportation" or "transporting" means picking up or transporting waste tires for the purpose of storage or final disposal.

(3) "Waste tires" means tires that are no longer suitable for their original intended purpose because of wear, damage, or defect.

Sec. 1195. RCW 70.95.555 and 2009 c 261 s 6 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;

(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, 70.95.515, or 70.95.570 (as recodified by this act), or rules adopted thereunder, after July 1, 2005;

(3) After January 1, 2006, for waste tires transported or stored before July 1, 2005, or for waste tires transported or stored after July 1, 2005, 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;

(4) Be registered in the state of Washington as a business and be in compliance with all state laws, rules, and local ordinances;

(5) Have a federal tax identification number and be in compliance with all applicable federal codes and regulations; and

(6) Report annually to the department the amount of tires transported and their disposition. Failure to report shall result in revocation of the license.

Sec. 1196. RCW 70.95.560 and 2005 c 354 s 7 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 (as recodified by this act) 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 (as recodified by this act) 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 July 1, 2005, and the storage was licensed in accordance with RCW 70.95.555 (as recodified by this act) at the time the tires were stored.

Sec. 1197. RCW 70.95.610 and 1989 c 431 s 37 are each amended to read as follows:

(1) No person may knowingly dispose of a vehicle battery except by delivery to: A person or entity selling lead acid batteries, a person or entity authorized by the department to accept the battery, or to a secondary lead smelter.

(2) No owner or operator of a solid waste disposal site shall knowingly accept for disposal used vehicle batteries except when authorized to do so by the department or by the federal government.

(3) Any person who violates this section shall be subject to a fine of up to one thousand dollars. Each battery will constitute a separate violation. Nothing in this section and RCW 70.95.620 through 70.95.660 (as recodified by this act) shall supersede the provisions under chapter 70.105 RCW (as recodified by this act).

(4) For purposes of this section and RCW 70.95.620 through 70.95.660 (as recodified by this act), "vehicle battery" means batteries capable for use in any vehicle, having a core consisting of elemental lead, and a capacity of six or more volts.

Sec. 1198. RCW 70.95.630 and 1989 c 431 s 39 are each amended to read as follows:

A person selling vehicle batteries at retail in the state shall:

(1) Accept, at the time of purchase of a replacement battery, in the place where the new batteries are physically transferred to the purchasers, and in a quantity at least equal to the number of new batteries purchased, used vehicle batteries from the purchasers, if offered by the purchasers. When a purchaser fails to provide an equivalent used battery or batteries, the purchaser may reclaim the core charge paid under RCW 70.95.640 (as recodified by this act) by returning, to the point of purchase within thirty days, a used battery or batteries and a receipt showing proof of purchase from the establishment where the replacement battery or batteries were purchased; and

(2) Post written notice which must be at least eight and one-half inches by eleven inches in size and must contain the universal recycling symbol and the following language:

(a) "It is illegal to put a motor vehicle battery or other vehicle battery in your garbage."

(b) "State law requires us to accept used motor vehicle batteries or other vehicle batteries for recycling, in exchange for new batteries purchased."

(c) "When you buy a battery, state law also requires us to include a core charge of five dollars or more if you do not return your old battery for exchange."

Sec. 1199. RCW 70.95.650 and 1989 c 431 s 41 are each amended to read as follows:

(1) A person selling vehicle batteries at wholesale to a retail establishment in this state shall accept, at the time and place of transfer, used vehicle batteries in a quantity at least equal to the number of new batteries purchased, if offered by the purchaser.

(2) When a battery wholesaler, or agent of the wholesaler, fails to accept used vehicle batteries as provided in this section, a retailer may file a complaint with the department and the department shall investigate any such complaint.

(3)(a) The department shall issue an order suspending any of the provisions of RCW 70.95.630 through 70.95.660 (as recodified by this act) whenever it finds that the market price of lead has fallen to the extent that new battery wholesalers' estimated statewide average cost of transporting used batteries to a smelter or other person or entity in the business of purchasing used batteries is

clearly greater than the market price paid for used lead batteries by such smelter or person or entity.

(b) The order of suspension shall only apply to batteries that are sold at retail during the period in which the suspension order is effective.

(c) The department shall limit its suspension order to a definite period not exceeding six months, but shall revoke the order prior to its expiration date should it find that the reasons for its issuance are no longer valid.

Sec. 1200. RCW 70.95.660 and 1989 c 431 s 42 are each amended to read as follows:

The department shall produce, print, and distribute the notices required by RCW 70.95.630 (as recodified by this act) to all places where vehicle batteries are offered for sale at retail and in performing its duties under this section the department may inspect any place, building, or premise governed by RCW 70.95.640 (as recodified by this act). Authorized employees of the agency may issue warnings and citations to persons who fail to comply with the requirements of RCW 70.95.610 through 70.95.670 (as recodified by this act). Failure to conform to the notice requirements of RCW 70.95.630 (as recodified by this act) shall subject the violator to a fine imposed by the department not to exceed one thousand dollars. However, no such fine shall be imposed unless the department has issued a warning of infraction for the first offense. Each day that a violator does not comply with the requirements of chapter 431, Laws of 1989 following the issuance of an initial warning of infraction shall constitute a separate offense.

Sec. 1201. RCW 70.95.670 and 1989 c 431 s 43 are each amended to read as follows:

The department shall adopt rules providing for the implementation and enforcement of RCW 70.95.610 through 70.95.660 (as recodified by this act).

Sec. 1202. RCW 70.95.715 and 1994 c 165 s 5 are each amended to read as follows:

(1) A solid waste planning jurisdiction may designate sharps waste container drop-off sites.

(2) A pharmacy return program shall not be considered a solid waste handling facility and shall not be required to obtain a solid waste permit. A pharmacy return program is required to register, at no cost, with the department. To facilitate designation of sharps waste drop-off sites, the department shall share the name and location of registered pharmacy return programs with jurisdictional health departments and local solid waste management officials.

(3) A public or private provider of solid waste collection service may provide a program to collect source separated residential sharps waste containers as provided in chapter 70.95K RCW (as recodified by this act).

(4) For the purpose of this section, "sharps waste," "sharps waste container," and "pharmacy return program" shall have the same meanings as provided in RCW 70.95K.010 (as recodified by this act).

Sec. 1203. RCW 70.95.807 and 2015 c 142 s 3 are each amended to read as follows:

(1) The department of transportation, together with its implementation partners, as that term is defined in RCW 70.95.805 (as recodified by this act), must report annually to the legislature on the implementation of RCW 70.95.805 (as recodified by this act). The annual report must be submitted to the

legislature, consistent with RCW 43.01.036, by January 2nd of each year from 2017 through 2020.

(2) This section expires July 1, 2021.

Sec. 1204. RCW 70.95.815 and 2019 c 255 s 2 are each amended to read as follows:

(1) A goal is established for the state to reduce by fifty percent the amount of food waste generated annually by 2030, relative to 2015 levels. A subset of this goal must include a prevention goal to reduce the amount of edible food that is wasted.

(2) The department may estimate 2015 levels of wasted food in Washington using any combination of solid waste reporting data obtained under this chapter and surveys and studies measuring wasted food and food waste in other jurisdictions. For the purposes of measuring progress towards the goal in subsection (1) of this section, the department must adopt standardized metrics and processes for measuring or estimating volumes of wasted food and food waste generated in the state.

(3) By October 1, 2020, the department, in consultation with the department of agriculture and the department of health, must develop and adopt a state wasted food reduction and food waste diversion plan designed to achieve the goal established in subsection (1) of this section.

(a) The wasted food reduction and food waste diversion plan must include strategies, in descending order of priority, to:

(i) Prevent and reduce the wasting of edible food by residents and businesses;

(ii) Help match and support the capacity for edible food that would otherwise be wasted with food banks and other distributors that will ensure the food reaches those who need it; and

(iii) Support productive uses of inedible food materials, including using it for animal feed, energy production through anaerobic digestion, or other commercial uses, and for off-site or on-site management systems including composting, vermicomposting, or other biological systems.

(b) The wasted food reduction and food waste diversion plan must be designed to:

(i) Recommend a regulatory environment that optimizes activities and processes to rescue safe, nutritious, edible food;

(ii) Recommend a funding environment in which stable, predictable resources are provided to wasted food prevention and rescue and food waste recovery activities in such a way as to allow the development of additional capacity and the use of new technologies;

(iii) Avoid placing burdensome regulations on the hunger relief system, and ensure that organizations involved in wasted food prevention and rescue, and food waste recovery, retain discretion to accept or reject donations of food when appropriate;

(iv) Provide state technical support to wasted food prevention and rescue and food waste recovery organizations;

(v) Support the development and distribution of equitable materials to support food waste and wasted food educational and programmatic efforts in K-12 schools, in collaboration with the office of the superintendent of public

instruction, and aligned with the Washington state science and social studies learning standards; and

(vi) Facilitate and encourage restaurants and other retail food establishments to safely donate food to food banks and food assistance programs through education and outreach to retail food establishment operators regarding safe food donation opportunities, practices, and benefits.

(c) The wasted food reduction and food waste diversion plan must include suggested best practices that local governments may incorporate into solid waste management plans developed under RCW 70.95.080 (as recodified by this act).

(d) The department must solicit feedback from the public and interested stakeholders throughout the process of developing and adopting the wasted food reduction and food waste diversion plan. To assist with its food waste reduction plan development responsibilities, the department may designate a stakeholder advisory panel. If the department designates a stakeholder advisory panel, it must consist of local government health departments, local government solid waste departments, food banks, hunger-focused nonprofit organizations, waste-focused nonprofit organizations, K-12 public education, and food businesses or food business associations.

(e) The department must identify the sources of scientific, economic, or other technical information it relied upon in developing the plan required under this section, including peer-reviewed science.

(f) In conjunction with the development of the wasted food reduction and food waste diversion plan, the department and the departments of agriculture and health must consider recommending changes to state law, including changes to food quality, labeling, and inspection requirements under chapter 69.80 RCW and any changes in laws relating to the donation of food waste or wasted food for animals, in order to achieve the goal established in subsection (1) of this section. Any such recommendations must be explained via a report to the legislature submitted consistent with RCW 43.01.036 by December 1, 2020. Prior to any implementation of the plan, for the activities, programs, or policies in the plan that would impose new obligations on state agencies, local governments, businesses, or citizens, the December 1, 2020, report must outline the plan for making regulatory changes identified in the report. This outline must include the department or the appropriate state agency's plan to make recommendations for statutory or administrative rule changes identified. In combination with any identified statutory or administrative rule changes, the department or the appropriate state agency must include expected cost estimates for both government entities and private persons or businesses to comply with any recommended changes.

(4) In support of the development of the plan in subsection (3) of this section, the department of commerce must contract for an independent evaluation of the state's food waste and wasted food management system.

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

(a)(i) "Food waste" means waste from fruits, vegetables, meats, dairy products, fish, shellfish, nuts, seeds, grains, and similar materials that results from the storage, preparation, cooking, handling, selling, or serving of food for human consumption.

(ii) "Food waste" includes, but is not limited to, excess, spoiled, or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, and peels. "Food waste" does not include dead animals not intended for human consumption or animal excrement.

(b) "Prevention" refers to avoiding the wasting of food in the first place and represents the greatest potential for cost savings and environmental benefits for businesses, governments, and consumers.

(c) "Recovery" refers to processing inedible food waste to extract value from it, through composting, anaerobic digestion, or for use as animal feedstock.

(d) "Rescue" refers to the redistribution of surplus edible food to other users.

(e) "Wasted food" means the edible portion of food waste.

Sec. 1205. RCW 70.95A.070 and 1983 c 167 s 176 are each amended to read as follows:

Any bonds issued under the provisions of this chapter and at any time outstanding may at any time and from time to time be refunded by a municipality by the issuance of its refunding bonds in such amount as the governing body may deem necessary but not exceeding an amount sufficient to refund the principal of the bonds to be so refunded, together with any unpaid interest thereon and any premiums and commissions necessary to be paid in connection therewith: PROVIDED, That an issue of refunding bonds may be combined with an issue of additional revenue bonds on any facilities. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the payment of the bonds to be refunded thereby, or by exchange of the refunding bonds for the bonds to be refunded thereby: PROVIDED FURTHER, That the owners of any bonds to be so refunded shall not be compelled without their consent to surrender their bonds for payment or exchange except on the terms expressed on the face thereof. Any refunding bonds issued under the authority of this chapter shall be subject to the provisions contained in RCW 70.95A.040 (as recodified by this act) and may be secured in accordance with the provisions of RCW 70.95A.050 (as recodified by this act).

Sec. 1206. RCW 70.95A.100 and 1973 c 132 s 11 are each amended to read as follows:

Upon request by a municipality or by a user of the facilities the department of ecology may in relation to chapter 54, Laws of 1972 ex. sess. and this chapter issue its certificate stating that the facilities (1) as designed are in furtherance of the purpose of abating, controlling or preventing pollution, and/or (2) as designed or as operated meet state and local requirements for the control of pollution. This section shall not be construed as modifying the provisions of RCW 82.34.030; chapter 70.94 RCW (as recodified by this act); or chapter 90.48 RCW.

Sec. 1207. RCW 70.95B.060 and 1973 c 139 s 6 are each amended to read as follows:

The director is authorized when taking action pursuant to RCW 70.95B.040 and 70.95B.050 (as recodified by this act) to consider generally applicable criteria and guidelines developed by a nationally recognized association of certification authorities.

Sec. 1208. RCW 70.95B.090 and 2018 c 213 s 1 are each amended to read as follows:

The issuance and renewal of a certificate shall be subject to the following conditions:

(1) A certificate shall be issued if the operator has satisfactorily passed a written examination, or has met the requirements of RCW 70.95B.080 (as recodified by this act), and has met the requirements specified in the rules and regulations as authorized by this chapter, and has paid the department an application fee as established by the department under RCW 70.95B.095 (as recodified by this act).

(2) The term for all certificates shall be from the first of January of the year of issuance until the thirty-first of December of the renewal year. The renewal period, not to exceed three years, shall be set by agency rule. Every certificate shall be renewed upon the payment of a renewal fee as established by the department under RCW 70.95B.095 (as recodified by this act) and satisfactory evidence presented to the director that the operator demonstrates continued professional growth in the field.

(3) Individuals who fail to renew their certificates before December 31 of the renewal year, upon notice by the director shall have their certificates suspended for sixty days. If, during the suspension period, the renewal is not completed, the director shall give notice of revocation to the employer and to the operator and the certificate will be revoked ten days after such notice is given. An operator whose certificate has been revoked must reapply for certification and will be requested to meet the requirements of a new applicant.

Sec. 1209. RCW 70.95B.095 and 2018 c 213 s 2 are each amended to read as follows:

(1) The department shall establish and collect fees for the issuance and renewal of wastewater treatment plant operator certificates as provided for in RCW 70.95B.090 (as recodified by this act). The department, with the advice of an advisory committee, shall establish an initial fee schedule by rule. Fees shall be established in amounts to fully recover and not to exceed expenses incurred by the department to administer the wastewater operator certification program, to include evaluating applications necessary to verify compliance with certification requirements, maintaining and administering credible examinations, ensuring operators receive necessary training, outreach, and technical assistance, enforcing certification program requirements, providing necessary education and training to program staff, and supporting the overhead expenses related to administering the wastewater operator certification program.

(2) Once the initial fee schedule is adopted by rule, the department shall conduct a workload analysis and prepare a biennial budget estimate for the wastewater treatment plant operator certification program. Thereafter, the department shall assess and collect fees from all wastewater treatment plant operators at a level that fully recovers the costs identified in its biennial operating budget.

(3) If fee increases above the state's fiscal growth factor are proposed, due to an expansion of the wastewater operator certification program, the department must submit a report to the legislature describing the need for the increase.

Sec. 1210. RCW 70.95B.120 and 1987 c 357 s 8 are each amended to read as follows:

On and after one year following July 1, 1973, it shall be unlawful for any person, firm, corporation, municipal corporation, or other governmental subdivision or agency to operate a wastewater treatment plant unless the individuals identified in RCW 70.95B.030 (as recodified by this act) are duly certified by the director under the provisions of this chapter or any lawful rule, order, or regulation of the department. It shall also be unlawful for any person to perform the duties of an operator as defined in this chapter, or in any lawful rule, order, or regulation of the department, without being duly certified under the provisions of this chapter.

Sec. 1211. RCW 70.95B.151 and 2017 c 35 s 1 are each amended to read as follows:

The wastewater treatment plant operator certification account is created in the state treasury. All fees paid pursuant to RCW 70.95B.095 (as recodified by this act) and any other receipts realized in the administration of this chapter must be deposited into the account. Moneys in the account may be spent only after appropriation. Moneys from the account must be used by the department to carry out the purposes of the wastewater treatment plant operator certification program.

Sec. 1212. RCW 70.95C.010 and 1990 c 114 s 1 are each amended to read as follows:

The legislature finds that land disposal and incineration of solid and hazardous waste can be both harmful to the environment and costly to those who must dispose of the waste. In order to address this problem in the most cost-effective and environmentally sound manner, and to implement the highest waste management priority as articulated in RCW 70.95.010 and 70.105.150 (as recodified by this act), public and private efforts should focus on reducing the generation of waste. Waste reduction can be achieved by encouraging voluntary efforts to redesign industrial, commercial, production, and other processes to result in the reduction or elimination of waste by-products and to maximize the in-process reuse or reclamation of valuable spent material.

In the interest of protecting the public health, safety, and the environment, the legislature declares that it is the policy of the state of Washington to encourage reduction in the use of hazardous substances and reduction in the generation of hazardous waste whenever economically and technically practicable.

The legislature finds that hazardous wastes are generated by numerous different sources including, but not limited to, large and small business, households, and state and local government. The legislature further finds that a goal against which efforts at waste reduction may be measured is essential for an effective hazardous waste reduction program. The Pacific Northwest hazardous waste advisory council has endorsed a goal of reducing, through hazardous substance use reduction and waste reduction techniques, the generation of hazardous waste by fifty percent by 1995. The legislature adopts this as a policy goal for the state of Washington. The legislature recognizes that many individual businesses have already reduced the generation of hazardous waste through appropriate hazardous waste reduction techniques. The legislature also

recognizes that there are some basic industrial processes which by their nature have limited potential for significantly reducing the use of certain raw materials or substantially reducing the generation of hazardous wastes. Therefore, the goal of reducing hazardous waste generation by fifty percent cannot be applied as a regulatory requirement.

Sec. 1213. RCW 70.95C.020 and 1991 c 319 s 313 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology or the director's designee.

(3) "Dangerous waste" shall have the same definition as set forth in RCW 70.105.010(~~((5))~~) (1) (as recodified by this act) and shall specifically include those wastes designated as dangerous by rules adopted pursuant to chapter 70.105 RCW (as recodified by this act).

(4) "EPA/state identification number" means the number assigned by the EPA (environmental protection agency) or by the department of ecology to each generator and/or transporter and treatment, storage, and/or disposal facility.

(5) "Extremely hazardous waste" shall have the same definition as set forth in RCW 70.105.010(~~((6))~~) (7) (as recodified by this act) and shall specifically include those wastes designated as extremely hazardous by rules adopted pursuant to chapter 70.105 RCW (as recodified by this act).

(6) "Fee" means the annual hazardous waste fees imposed under RCW 70.95E.020 and 70.95E.030 (as recodified by this act).

(7) "Generate" means any act or process which produces hazardous waste or first causes a hazardous waste to become subject to regulation.

(8) "Hazardous substance" means any hazardous substance listed as a hazardous substance as of March 21, 1990, pursuant to section 313 of Title III of the Superfund Amendments and Reauthorization Act, any other substance determined by the director by rule to present a threat to human health or the environment, and all ozone depleting compounds as defined by the Montreal Protocol of October 1987.

(9)(a) "Hazardous substance use reduction" means the reduction, avoidance, or elimination of the use or production of hazardous substances without creating substantial new risks to human health or the environment.

(b) "Hazardous substance use reduction" includes proportionate changes in the usage of hazardous substances as the usage of a hazardous substance or hazardous substances changes as a result of production changes or other business changes.

(10) "Hazardous substance user" means any facility required to report under section 313 of Title III of the Superfund Amendments and Reauthorization Act, except for those facilities which only distribute or use fertilizers or pesticides intended for commercial agricultural applications.

(11) "Hazardous waste" means and includes all dangerous and extremely hazardous wastes, but does not include radioactive wastes or a substance composed of both radioactive and hazardous components and does not include any hazardous waste generated as a result of a remedial action under state or federal law.

(12) "Hazardous waste generator" means any person generating hazardous waste regulated by the department.

(13) "Office" means the office of waste reduction.

(14) "Plan" means the plan provided for in RCW 70.95C.200 (as recodified by this act).

(15) "Person" means an individual, trust, firm, joint stock company, partnership, association, state, public or private or municipal corporation, commission, political subdivision of a state, interstate body, the federal government, including any agency or officer thereof, and any Indian tribe or authorized tribal organization.

(16) "Process" means all industrial, commercial, production, and other processes that result in the generation of waste.

(17) "Recycled for beneficial use" means the use of hazardous waste, either before or after reclamation, as a substitute for a commercial product or raw material, but does not include: (a) Use constituting disposal; (b) incineration; or (c) use as a fuel.

(18) "Recycling" means reusing waste materials and extracting valuable materials from a waste stream. Recycling does not include burning for energy recovery.

(19) "Treatment" means the physical, chemical, or biological processing of waste to render it completely innocuous, produce a recyclable by-product, reduce toxicity, or substantially reduce the volume of material requiring disposal as described in the priorities established in RCW 70.105.150 (as recodified by this act). Treatment does not include incineration.

(20) "Used oil" means (a) lubricating fluids that have been removed from an engine crankcase, transmission, gearbox, hydraulic device, or differential of an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine; (b) any oil that has been refined from crude oil, used, and as a result of use, has been contaminated with physical or chemical impurities; and (c) any oil that has been refined from crude oil and, as a consequence of extended storage, spillage, or contamination, is no longer useful to the original purchaser. "Used oil" does not include used oil to which hazardous wastes have been added.

(21) "Waste" means any solid waste as defined under RCW 70.95.030 (as recodified by this act), any hazardous waste, any air contaminant as defined under RCW 70.94.030 (as recodified by this act), and any organic or inorganic matter that shall cause or tend to cause water pollution as defined under RCW 90.48.020.

(22) "Waste generator" means any individual, business, government agency, or any other organization that generates waste.

(23) "Waste reduction" means all in-plant practices that reduce, avoid, or eliminate the generation of wastes or the toxicity of wastes, prior to generation, without creating substantial new risks to human health or the environment. As used in RCW 70.95C.200 through 70.95C.240 (as recodified by this act), "waste reduction" refers to hazardous waste only.

Sec. 1214. RCW 70.95C.030 and 1998 c 245 s 133 are each amended to read as follows:

(1) There is established in the department an office of waste reduction. The office shall use its authorities to encourage the voluntary reduction of hazardous

substance usage and waste generation by waste generators and hazardous substance users. The office shall prepare and submit a quarterly progress report to the director.

(2) The office shall be the coordinating center for all state agency programs that provide technical assistance to waste generators and hazardous substance users and shall serve as the state's lead agency and promoter for such programs. In addition to this coordinating function, the office shall encourage hazardous substance use reduction and waste reduction by:

(a) Providing for the rendering of advice and consultation to waste generators and hazardous substance users on hazardous substance use reduction and waste reduction techniques, including assistance in preparation of plans provided for in RCW 70.95C.200 (as recodified by this act);

(b) Sponsoring or co-sponsoring with public or private organizations technical workshops and seminars on waste reduction and hazardous substance use reduction;

(c) Administering a waste reduction and hazardous substance use reduction database and hotline providing comprehensive referral services to waste generators and hazardous substance users;

(d) Administering a waste reduction and hazardous substance use reduction research and development program;

(e) Coordinating a waste reduction and hazardous substance use reduction public education program that includes the utilization of existing publications from public and private sources, as well as publishing necessary new materials on waste reduction;

(f) Recommending to institutions of higher education in the state courses and curricula in areas related to waste reduction and hazardous substance use reduction; and

(g) Operating an intern program in cooperation with institutions of higher education and other outside resources to provide technical assistance on hazardous substance use reduction and waste reduction techniques and to carry out research projects as needed within the office.

Sec. 1215. RCW 70.95C.040 and 1990 c 114 s 5 are each amended to read as follows:

(1) The office shall establish a waste reduction and hazardous substance use reduction consultation program to be coordinated with other state waste reduction and hazardous substance use reduction consultation programs.

(2) The director may grant a request by any waste generator or hazardous substance user for advice and consultation on waste reduction and hazardous substance use reduction techniques and assistance in preparation or modification of a plan, executive summary, or annual progress report, or assistance in the implementation of a plan required by RCW 70.95C.200 (as recodified by this act). Pursuant to a request from a facility such as a business, governmental entity, or other process site in the state, the director may visit the facility making the request for the purposes of observing hazardous substance use and the waste-generating process, obtaining information relevant to waste reduction and hazardous substance use reduction, rendering advice, and making recommendations. No such visit may be regarded as an inspection or investigation, and no notices or citations may be issued, or civil penalty be assessed, upon such a visit. A representative of the director providing advisory

or consultative services under this section may not have any enforcement authority.

(3) Consultation and advice given under this section shall be limited to the matters specified in the request and shall include specific techniques of waste reduction and hazardous substance use reduction tailored to the relevant process. In granting any request for advisory or consultative services, the director may provide for an alternative means of affording consultation and advice other than on-site consultation.

(4) Any proprietary information obtained by the director while carrying out the duties required under this section shall remain confidential and shall not be publicized or become part of the database established under RCW 70.95C.060 (as recodified by this act) without written permission of the requesting party.

Sec. 1216. RCW 70.95C.070 and 1988 c 177 s 7 are each amended to read as follows:

(1) The office may administer a waste reduction research and development program. The director may contract with any public or private organization for the purpose of developing methods and technologies that achieve waste reduction. All research performed and all methods or technologies developed as a result of a contract entered into under this section shall become the property of the state and shall be incorporated into the database system established under RCW 70.95C.060 (as recodified by this act).

(2) Any contract entered into under this section shall be awarded only after requests for proposals have been circulated to persons, firms, or organizations who have requested that their names be placed on a proposal list. The director shall establish a proposal list and shall review and evaluate all proposals received.

Sec. 1217. RCW 70.95C.210 and 1990 c 114 s 7 are each amended to read as follows:

A person required to prepare a plan under RCW 70.95C.200 (as recodified by this act) because of the quantity of hazardous waste generated may petition the director to be excused from this requirement. The person must demonstrate to the satisfaction of the director that the quantity of hazardous waste generated was due to unique circumstances not likely to be repeated and that the person is unlikely to generate sufficient hazardous waste to require a plan in the next five years.

Sec. 1218. RCW 70.95C.220 and 2005 c 274 s 338 are each amended to read as follows:

(1) The department may review a plan, executive summary, or an annual progress report to determine whether the plan, executive summary, or annual progress report is adequate pursuant to the rules developed under this section and with the provisions of RCW 70.95C.200 (as recodified by this act). In determining the adequacy of any plan, executive summary, or annual progress report, the department shall base its determination solely on whether the plan, executive summary, or annual progress report is complete and prepared in accordance with the provisions of RCW 70.95C.200 (as recodified by this act).

(2) Plans developed under RCW 70.95C.200 (as recodified by this act) shall be retained at the facility of the hazardous substance user or hazardous waste generator preparing a plan. The plan is not a public record under the public

records act, chapter 42.56 RCW. A user or generator required to prepare a plan shall permit the director or a representative of the director to review the plan to determine its adequacy. No visit made by the director or a representative of the director to a facility for the purposes of this subsection may be regarded as an inspection or investigation, and no notices or citations may be issued, nor any civil penalty assessed, upon such a visit.

(3) If a hazardous substance user or hazardous waste generator fails to complete an adequate plan, executive summary, or annual progress report, the department shall notify the user or generator of the inadequacy, identifying specific deficiencies. For the purposes of this section, a deficiency may include failure to develop a plan, failure to submit an executive summary pursuant to the schedule provided in RCW 70.95C.200(5) (as recodified by this act), and failure to submit an annual progress report pursuant to the rules developed under RCW 70.95C.200(6) (as recodified by this act). The department shall specify a reasonable time frame, of not less than ninety days, within which the user or generator shall complete a modified plan, executive summary, or annual progress report addressing the specified deficiencies.

(4) If the department determines that a modified plan, executive summary, or annual progress report is inadequate, the department may, within its discretion, either require further modification or enter an order pursuant to subsection (5)(a) of this section.

(5)(a) If, after having received a list of specified deficiencies from the department, a hazardous substance user or hazardous waste generator required to prepare a plan fails to complete modification of a plan, executive summary, or annual progress report within the time period specified by the department, the department may enter an order pursuant to chapter 34.05 RCW finding the user or generator not in compliance with the requirements of RCW 70.95C.200 (as recodified by this act). When the order is final, the department shall notify the department of revenue to charge a penalty fee. The penalty fee shall be the greater of one thousand dollars or three times the amount of the user's or generator's previous year's fee, in addition to the current year's fee. If no fee was assessed the previous year, the penalty shall be the greater of one thousand dollars or three times the amount of the current year's fee. The penalty assessed under this subsection shall be collected each year after the year for which the penalty was assessed until an adequate plan or executive summary is completed.

(b) If a hazardous substance user or hazardous waste generator required to prepare a plan fails to complete an adequate plan, executive summary, or annual progress report after the department has levied against the user or generator the penalty provided in (a) of this subsection, the user or generator shall be required to pay a surcharge to the department whenever the user or generator disposes of a hazardous waste at any hazardous waste incinerator or hazardous waste landfill facility located in Washington state, until a plan, executive summary, or annual progress report is completed and determined to be adequate by the department. The surcharge shall be equal to three times the fee charged for disposal. The department shall furnish the incinerator and landfill facilities in this state with a list of environmental protection agency/state identification numbers of the hazardous waste generators that are not in compliance with the requirements of RCW 70.95C.200 (as recodified by this act).

Sec. 1219. RCW 70.95C.230 and 1990 c 114 s 9 are each amended to read as follows:

A user or generator may appeal from a department order or a surcharge under RCW 70.95C.220 (as recodified by this act) to the pollution control hearings board pursuant to chapter 43.21B RCW.

Sec. 1220. RCW 70.95D.010 and 1995 c 269 s 2801 are each amended to read as follows:

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

(1) "Certificate" means a certificate of competency issued by the director stating that the operator has met the requirements for the specified operator classification of the certification program.

(2) "Department" means the department of ecology.

(3) "Director" means the director of ecology.

(4) "Incinerator" means a facility which has the primary purpose of burning or which is designed with the primary purpose of burning solid waste or solid waste derived fuel, but excludes facilities that have the primary purpose of burning hog fuel.

(5) "Landfill" means a landfill as defined under RCW 70.95.030 (as recodified by this act).

(6) "Owner" means, in the case of a town or city, the city or town acting through its chief executive officer or the lessee if operated pursuant to a lease or contract; in the case of a county, the chief elected official of the county legislative authority or the chief elected official's designee; in the case of a board of public utilities, association, municipality, or other public body, the president or chief elected official of the body or the president's or chief elected official's designee; in the case of a privately owned landfill or incinerator, the legal owner.

(7) "Solid waste" means solid waste as defined under RCW 70.95.030 (as recodified by this act).

Sec. 1221. RCW 70.95E.010 and 1995 c 207 s 1 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Dangerous waste" shall have the same definition as set forth in RCW 70.105.010(~~((5))~~) (1) (as recodified by this act) and shall include those wastes designated as dangerous by rules adopted pursuant to chapter 70.105 RCW (as recodified by this act).

(2) "Department" means the department of ecology.

(3) "EPA/state identification number" means the number assigned by the EPA (environmental protection agency) or by the department of ecology to each generator and/or transporter and treatment, storage, and/or disposal facility.

(4) "Extremely hazardous waste" shall have the same definition as set forth in RCW 70.105.010(~~((6))~~) (7) (as recodified by this act) and shall specifically include those wastes designated as extremely hazardous by rules adopted pursuant to chapter 70.105 RCW (as recodified by this act).

(5) "Fee" means the annual fees imposed under this chapter.

(6) "Generate" means any act or process which produces hazardous waste or first causes a hazardous waste to become subject to regulation.

(7) "Hazardous waste" means and includes all dangerous and extremely hazardous wastes but for the purposes of this chapter excludes all radioactive wastes or substances composed of both radioactive and hazardous components.

(8) "Hazardous waste generator" means all persons whose primary business activities are identified by the department to generate any quantity of hazardous waste in the calendar year for which the fee is imposed.

(9) "Person" means an individual, trust, firm, joint stock company, partnership, association, state, public or private or municipal corporation, commission, political subdivision of a state, interstate body, the federal government including any agency or officer thereof, and any Indian tribe or authorized tribal organization.

(10) "Price deflator" means the United States department of commerce bureau of economic analysis, "Implicit Price Deflator for Gross National Product" for "Government Purchases of Goods and Services," for "State and Local Government."

(11) "Recycled for beneficial use" means the use of hazardous waste, either before or after reclamation, as a substitute for a commercial product or raw material, but does not include: (a) Use constituting disposal; (b) incineration; or (c) use as a fuel.

(12) "Waste generation site" means any geographical area that has been assigned an EPA/state identification number.

Sec. 1222. RCW 70.95E.020 and 1995 c 207 s 2 are each amended to read as follows:

A fee is imposed for the privilege of generating hazardous waste in the state. The annual amount of the fee shall be thirty-five dollars upon every hazardous waste generator doing business in Washington in the current calendar year or any part thereof. This fee shall be collected by the department or its designee. A hazardous waste generator shall be exempt from the fee imposed under this section if the value of products, gross proceeds of sales, or gross income of the business, from all business activities of the hazardous waste generator, is less than twelve thousand dollars in the current calendar year. The department shall, subject to appropriation, use the funds collected from the fees assessed in this subsection to support the activities of the office of waste reduction as specified in RCW 70.95C.030 (as recodified by this act). The fee imposed pursuant to this section is due annually by July 1 of the year following the calendar year for which the fee is imposed.

Sec. 1223. RCW 70.95E.030 and 1994 c 136 s 3 are each amended to read as follows:

Hazardous waste generators and hazardous substance users required to prepare plans under RCW 70.95C.200 (as recodified by this act) shall pay an annual fee to support implementation of RCW 70.95C.200 and 70.95C.040 (as recodified by this act). These fees are to be used by the department, subject to appropriation, for plan review, technical assistance to facilities that are required to prepare plans, other activities related to plan development and implementation, and associated indirect costs. The total fees collected under this subsection shall not exceed the department's costs of implementing RCW 70.95C.200 and 70.95C.040 (as recodified by this act) and shall not exceed one million dollars per year. The annual fee for a facility shall not exceed ten

thousand dollars per year. Any facility that generates less than two thousand six hundred forty pounds of hazardous waste per waste generation site in the previous calendar year shall be exempt from the fee imposed by this section. The annual fee for a facility generating at least two thousand six hundred forty pounds but not more than four thousand pounds of hazardous waste per waste generation site in the previous calendar year shall not exceed fifty dollars. A person that develops a plan covering more than one interrelated facility as provided for in RCW 70.95C.200 (as recodified by this act) shall be assessed fees only for the number of plans prepared. The department shall adopt a fee schedule by rule after consultation with typical affected businesses and other interested parties. Hazardous waste generated and recycled for beneficial use, including initial amount of hazardous substances introduced into a process and subsequently recycled for beneficial use, shall not be used in the calculations of hazardous waste generated for purposes of this section.

The annual fee imposed by this section shall be first due on July 1st of the year prior to the year that the facility is required to prepare a plan, and by July 1st of each year thereafter.

Sec. 1224. RCW 70.95E.040 and 1990 c 114 s 14 are each amended to read as follows:

On an annual basis, the department shall adjust the fees provided for in RCW 70.95E.020 and 70.95E.030 (as recodified by this act), including the maximum annual fee, and maximum total fees, by conducting the calculation in subsection (1) of this section and taking the actions set forth in subsection (2) of this section:

(1) In November of each year, the fees, annual fee, and maximum total fees imposed in RCW 70.95E.020 and 70.95E.030 (as recodified by this act), or as subsequently adjusted by this section, shall be multiplied by a factor equal to the most current quarterly "price deflator" available, divided by the "price deflator" used in the numerator the previous year. However, the "price deflator" used in the denominator for the first adjustment shall be defined by the second quarter "price deflator" for 1990.

(2) Each year by March 1st the fee schedule, as adjusted in subsection (1) of this section will be published. The department will round the published fees to the nearest dollar.

Sec. 1225. RCW 70.95E.050 and 1995 c 207 s 3 are each amended to read as follows:

In administration of this chapter for the enforcement and collection of the fees due and owing under RCW 70.95E.020 and 70.95E.030 (as recodified by this act), the department may apply RCW 43.17.240.

Sec. 1226. RCW 70.95E.080 and 1991 sp.s. c 13 s 75 are each amended to read as follows:

The hazardous waste assistance account is hereby created in the state treasury. The following moneys shall be deposited into the hazardous waste assistance account:

(1) Those revenues which are raised by the fees imposed under RCW 70.95E.020 and 70.95E.030 (as recodified by this act);

(2) Penalties and surcharges collected under chapter 70.95C RCW (as recodified by this act) and this chapter; and

(3) Any other moneys appropriated or transferred to the account by the legislature. Moneys in the hazardous waste assistance account may be spent only for the purposes of this chapter following legislative appropriation.

Sec. 1227. RCW 70.95E.090 and 1995 c 207 s 4 are each amended to read as follows:

The department may use funds in the hazardous waste assistance account to provide technical assistance and compliance education assistance to hazardous substance users and waste generators, to provide grants to local governments, and for administration of this chapter.

Technical assistance may include the activities authorized under chapter 70.95C RCW (as recodified by this act) and RCW 70.105.170 (as recodified by this act) to encourage hazardous waste reduction and hazardous use reduction and the assistance provided for by RCW 70.105.100(2) (as recodified by this act).

Compliance education may include the activities authorized under RCW 70.105.100(2) (as recodified by this act) to train local agency officials and to inform hazardous substance users and hazardous waste generators and owners and operators of hazardous waste management facilities of the requirements of chapter 70.105 RCW (as recodified by this act) and related federal laws and regulations. To the extent practicable, the department shall contract with private businesses to provide compliance education.

Grants to local governments shall be used for small quantity generator technical assistance and compliance education components of their moderate risk waste plans as required by RCW 70.105.220 (as recodified by this act).

Sec. 1228. RCW 70.95F.020 and 1991 c 319 s 104 are each amended to read as follows:

(1) The provisions of this section and any rules adopted under this section shall be interpreted to conform with nationwide plastics industry standards.

(2) Except as provided in RCW 70.95F.030(2) (as recodified by this act), after January 1, 1992, no person may distribute, sell, or offer for sale in this state a plastic bottle or rigid plastic container unless the container is labeled with a code identifying the appropriate resin type used to produce the structure of the container. The code shall consist of a number placed within three triangulated arrows and letters placed below the triangle of arrows. The triangulated arrows shall be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The pointer (arrowhead) of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number. The numbers and letters used shall be as follows:

- (a) 1.= PETE (polyethylene terephthalate)
- (b) 2.= HDPE (high density polyethylene)
- (c) 3.= V (vinyl)
- (d) 4.= LDPE (low density polyethylene)
- (e) 5.= PP (polypropylene)
- (f) 6.= PS (polystyrene)
- (g) 7.= OTHER

Sec. 1229. RCW 70.95F.030 and 1991 c 319 s 105 are each amended to read as follows:

(1) A person who, after written notice from the department, violates RCW 70.95F.020 (as recodified by this act) is subject to a civil penalty of fifty dollars for each violation up to a maximum of five hundred dollars and may be enjoined from continuing violations. Each distribution constitutes a separate offense.

(2) Retailers and distributors shall have two years from May 21, 1991, to clear current inventory, delivered or received and held in their possession as of May 21, 1991.

Sec. 1230. RCW 70.95G.030 and 1991 c 319 s 109 are each amended to read as follows:

All packages and packaging components shall be subject to this chapter except the following:

(1) Those packages or packaging components with a code indicating date of manufacture that were manufactured prior to May 21, 1991;

(2) Those packages or packaging components that have been purchased by, delivered to, or are possessed by a retailer on or before twenty-four months following May 21, 1991, to permit opportunity to clear existing inventory of the proscribed packaging material;

(3) Those packages or packaging components to which lead, cadmium, mercury, or hexavalent chromium have been added in the manufacturing, forming, printing, or distribution process in order to comply with health or safety requirements of federal law or for which there is no feasible alternative; or

(4) Those packages and packaging components that would not exceed the maximum contaminant levels set forth in RCW 70.95G.020(1) (as recodified by this act) but for the addition of postconsumer materials; and provided that the exemption for this subsection shall expire six years after May 21, 1991.

Sec. 1231. RCW 70.95G.040 and 2018 c 138 s 3 are each amended to read as follows:

A certificate of compliance stating that a package or packaging component is in compliance with the requirements of this chapter shall be developed by its manufacturer. For food packaging, a manufacturer shall develop a compliance certificate by the date of a prohibition taking effect under RCW 70.95G.070 (as recodified by this act). If compliance is achieved under the exemption or exemptions provided in RCW 70.95G.030 (as recodified by this act), the certificate shall state the specific basis upon which the exemption is claimed. The certificate of compliance shall be signed by an authorized official of the manufacturing company. The certificate of compliance shall be kept on file by the manufacturer for as long as the package or packaging component is in use, and for three years from the date of the last sale or distribution by the manufacturer. Certificates of compliance, or copies thereof, shall be furnished to the department of ecology upon request within sixty days. If manufacturers are required under any other state statute to provide a certificate of compliance, one certificate may be developed containing all required information.

If the manufacturer or supplier of the package or packaging component reformulates or creates a new package or packaging component, the manufacturer shall develop an amended or new certificate of compliance for the reformulated or new package or packaging component.

Sec. 1232. RCW 70.95G.060 and 1991 c 319 s 112 are each amended to read as follows:

The department of ecology may prohibit the sale of any package for which a manufacturer has failed to respond to a request by the department for a certificate of compliance within the allotted period of time pursuant to RCW 70.95G.040 (as recodified by this act).

Sec. 1233. RCW 70.95I.010 and 1991 c 319 s 302 are each amended to read as follows:

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

(1) "Rerefining used oil" means the reclaiming of base lube stock from used oil for use again in the production of lube stock. Rerefining used oil does not mean combustion or landfilling.

(2) "Used oil" means (a) lubricating fluids that have been removed from an engine crankcase, transmission, gearbox, hydraulic device, or differential of an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine; (b) any oil that has been refined from crude oil, used, and as a result of use, has been contaminated with physical or chemical impurities; and (c) any oil that has been refined from crude oil and, as a consequence of extended storage, spillage, or contamination, is no longer useful to the original purchaser. "Used oil" does not include used oil to which hazardous wastes have been added.

(3) "Public used oil collection site" means a site where a used oil collection tank has been placed for the purpose of collecting household generated used oil. "Public used oil collection site" also means a vehicle designed or operated to collect used oil from the public.

(4) "Lubricating oil" means any oil designed for use in, or maintenance of, a vehicle, including, but not limited to, motor oil, gear oil, and hydraulic oil. "Lubricating oil" does not mean petroleum hydrocarbons with a flash point below one hundred degrees Centigrade.

(5) "Vehicle" includes every device physically capable of being moved upon a public or private highway, road, street, watercourse, or trail, and in, upon, or by which any person or property is or may be transported or drawn upon a public or private highway, road, street, watercourse, or trail, except devices moved by human or animal power.

(6) "Department" means the department of ecology.

(7) "Local government" means a city or county developing a local hazardous waste plan under RCW 70.105.220 (as recodified by this act).

Sec. 1234. RCW 70.95I.020 and 2014 c 173 s 1 are each amended to read as follows:

(1) Each local government and its local hazardous waste plan under RCW 70.105.220 (as recodified by this act) is required to include a used oil recycling element. This element shall include:

(a) A plan to reach the local goals for household used oil recycling established by the local government and the department under RCW 70.95I.030 (as recodified by this act). The plan shall, to the maximum extent possible, incorporate voluntary agreements with the private sector and state agencies to

provide sites for the collection of used oil. Where provided, the plan shall also incorporate residential collection of used oil;

(b) A plan for enforcing the sign and container ordinances required by RCW 70.951.040 (as recodified by this act);

(c) A plan for public education on used oil recycling;

(d) A plan for addressing best management practices as provided for under RCW 70.951.030 (as recodified by this act); and

(e) An estimate of funding needed to implement the requirements of this chapter. This estimate shall include a budget reserve for disposal of contaminated oil detected at any public used oil collection site administered by the local government.

(2) By July 1, 1993, each local government or combination of contiguous local governments shall submit its used oil recycling element to the department. The department shall approve or disapprove the used oil recycling element by January 1, 1994, or within ninety days of submission, whichever is later. The department shall approve or disapprove the used oil recycling element if it determines that the element is consistent with this chapter and the guidelines developed by the department under RCW 70.951.030 (as recodified by this act).

(3) Each local government, or combination of contiguous local governments, shall submit an annual statement to the department describing the number of used oil collection sites and the quantity of household used oil recycled for the jurisdiction during the previous calendar year. The first statement shall be due April 1, 1994. Subsequent statements shall be due April 1st of each year.

(4) Nothing in this section shall be construed to require a city or county to construct or operate a public used oil collection site.

Sec. 1235. RCW 70.951.030 and 2014 c 173 s 2 are each amended to read as follows:

(1) The department shall, in consultation with local governments, maintain guidelines for the used oil recycling elements required by RCW 70.951.020 (as recodified by this act) and, by July 1, 2015, shall develop best management practices for preventing and managing polychlorinated biphenyl contamination at public used oil collection sites.

(a) The guidelines shall:

(i) Require development of local collection and rerefining goals for household used oil for each entity preparing a used oil recycling element under RCW 70.951.020 (as recodified by this act);

(ii) Require local government to recommend the number of used oil collection sites needed to meet the local goals. The department shall establish criteria regarding minimum levels of used oil collection sites;

(iii) Require local government to identify locations suitable as public used oil collection sites as described under RCW 70.951.020(1)(a) (as recodified by this act).

(b) The best management practices for preventing and managing polychlorinated biphenyl contamination at public used oil collection sites must include, at a minimum:

(i) Tank testing requirements;

(ii) Contaminated tank labeling and security measures;

(iii) Contaminated tank cleanup standards;

(iv) Proper contaminated used oil disposal as required under chapter 70.105 RCW (as recodified by this act) and 40 C.F.R. Part 761;

(v) Spill control measures; and

(vi) Model contract language for contracts with used oil collection vendors.

(2) The department may waive all or part of the specific requirements of RCW 70.95I.020 (as recodified by this act) if a local government demonstrates to the satisfaction of the department that the objectives of this chapter have been met.

(3) The department may prepare and implement a used oil recycling plan for any local government failing to complete the used oil recycling element of the plan.

(4) The department shall develop statewide collection and rerefining goals for household used oil for each calendar year beginning with calendar year 1994. Goals shall be based on the estimated statewide collection and rerefining rate for calendar year 1993, and shall increase each year until calendar year 1996, when the rate shall be eighty percent.

(5) By July 1, 2015, the department shall update the guidelines establishing statewide equipment and operating standards for public used oil collection sites. The updated guidelines must include the best management practices for prevention and management of contaminated used oil developed pursuant to subsection (1) of this section and a process for how to petition the legislature for relief of extraordinary costs incurred with the management and disposal of contaminated used oil. In addition, the standards shall:

(a) Allow the use of used oil collection igloos and other types of portable used oil collection tanks;

(b) Prohibit the disposal of nonhousehold-generated used oil;

(c) Limit the amount of used oil deposited to five gallons per household per day;

(d) Ensure adequate protection against leaks and spills; and

(e) Include other requirements deemed appropriate by the department.

Sec. 1236. RCW 70.95I.040 and 1991 c 319 s 305 are each amended to read as follows:

(1) A person annually selling one thousand or more gallons of lubricating oil to ultimate consumers for use or installation off the premises, or five hundred or more vehicle oil filters to ultimate consumers for use or installation off the premises within a city or county having an approved used oil recycling element, shall:

(a) Post and maintain at or near the point of sale, durable and legible signs informing the public of the importance of used oil recycling and how and where used oil may be properly recycled; and

(b) Provide for sale at or near the display location of the lubricating oil or vehicle oil filters, household used oil recycling containers. The department shall design and print the signs required by this section, and shall make them available to local governments and retail outlets.

(2) A person, who, after notice, violates this section is guilty of a misdemeanor and on conviction is subject to a fine not to exceed one thousand dollars.

(3) The department is responsible for notifying retailers subject to this section.

(4) A city or county may adopt household used oil recycling container standards in order to ensure compatibility with local recycling programs.

(5) Each local government preparing a used oil recycling element of a local hazardous waste plan pursuant to RCW 70.95I.020 (as recodified by this act) shall adopt ordinances within its jurisdiction to enforce subsections (1) and (4) of this section.

Sec. 1237. RCW 70.95I.060 and 1991 c 319 s 307 are each amended to read as follows:

(1) Effective January 1, 1992, the use of used oil for dust suppression or weed abatement is prohibited.

(2) Effective July 1, 1992, no person may sell or distribute absorbent-based kits, intended for home use, as a means for collecting, recycling, or disposing of used oil.

(3) Effective January 1, 1994, no person may knowingly dispose of used oil except by delivery to a person collecting used oil for recycling, treatment, or disposal, subject to the provisions of this chapter and chapter 70.105 RCW (as recodified by this act).

(4) Effective January 1, 1994, no owner or operator of a solid waste landfill may knowingly accept used oil for disposal in the landfill.

(5) A person who violates this section is guilty of a misdemeanor.

Sec. 1238. RCW 70.95I.070 and 1991 c 319 s 308 are each amended to read as follows:

(1) By January 1, 1993, the department shall adopt rules requiring any transporter of used oil to comply with minimum notification, invoicing, recordkeeping, and reporting requirements. For the purpose of this section, a transporter means a person engaged in the off-site transportation of used oil in quantities greater than twenty-five gallons per day.

(2) By January 1, 1993, the department shall adopt minimum standards for used oil that is blended into fuels. Standards shall, at a minimum, establish testing and recordkeeping requirements. Unless otherwise exempted, a processor is any person involved in the marketing, blending, mixing, or processing of used oil to produce fuel to be burned for energy recovery.

(3) Any person who knowingly transports used oil without meeting the requirements of this section shall be subject to civil penalties under chapter 70.105 RCW (as recodified by this act).

(4) Rules developed under this section shall not require a manifest from individual residences served by a waste oil curbside collection program.

Sec. 1239. RCW 70.95J.010 and 1992 c 174 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) "Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process, that can be beneficially recycled and meets all requirements under this chapter. For the purposes of this chapter, "biosolids" includes septic tank sludge, also known as septage, that can be beneficially recycled and meets all requirements under this chapter.

(2) "Department" means the department of ecology.

(3) "Local health department" has the same meaning as "jurisdictional health department" in RCW 70.95.030 (as recodified by this act).

(4) "Municipal sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.

Sec. 1240. RCW 70.95J.090 and 1992 c 174 s 11 are each amended to read as follows:

(1) Any permit issued by a local health department under RCW 70.95J.080 (as recodified by this act) may be reviewed by the department to ensure that the proposed site or facility conforms with all applicable laws, rules, and standards under this chapter.

(2) If the department does not approve or disapprove a permit within sixty days, the permit shall be considered approved.

(3) A local health department may appeal the department's decision to disapprove a permit to the pollution control hearings board, as provided in chapter 43.21B RCW.

Sec. 1241. RCW 70.95K.010 and 2019 c 432 s 32 are each amended to read as follows:

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

(1) "Biomedical waste" means, and is limited to, the following types of waste:

(a) "Animal waste" is waste animal carcasses, body parts, and bedding of animals that are known to be infected with, or that have been inoculated with, human pathogenic microorganisms infectious to humans.

(b) "Biosafety level 4 disease waste" is waste contaminated with blood, excretions, exudates, or secretions from humans or animals who are isolated to protect others from highly communicable infectious diseases that are identified as pathogenic organisms assigned to biosafety level 4 by the centers for disease control, national institute of health, biosafety in microbiological and biomedical laboratories, current edition.

(c) "Cultures and stocks" are wastes infectious to humans and includes specimen cultures, cultures and stocks of etiologic agents, wastes from production of biologicals and serums, discarded live and attenuated vaccines, and laboratory waste that has come into contact with cultures and stocks of etiologic agents or blood specimens. Such waste includes but is not limited to culture dishes, blood specimen tubes, and devices used to transfer, inoculate, and mix cultures.

(d) "Human blood and blood products" is discarded waste human blood and blood components, and materials containing free-flowing blood and blood products.

(e) "Pathological waste" is waste human source biopsy materials, tissues, and anatomical parts that emanate from surgery, obstetrical procedures, and autopsy. "Pathological waste" does not include teeth, human corpses, remains, and anatomical parts that are intended for final disposition.

(f) "Sharps waste" is all hypodermic needles, syringes with needles attached, IV tubing with needles attached, scalpel blades, and lancets that have been removed from the original sterile package.

(2) "Local government" means city, town, or county.

(3) "Local health department" means the city, county, city-county, or district public health department.

(4) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, or local government.

(5) "Treatment" means incineration, sterilization, or other method, technique, or process that changes the character or composition of a biomedical waste so as to minimize the risk of transmitting an infectious disease.

(6) "Residential sharps waste" has the same meaning as "sharps waste" in subsection (1) of this section except that the sharps waste is generated and prepared for disposal at a residence, apartment, dwelling, or other noncommercial habitat.

(7) "Sharps waste container" means a leak-proof, rigid, puncture-resistant red container that is taped closed or tightly lidded to prevent the loss of the residential sharps waste.

(8) "Mail programs" means those programs that provide sharps users with a multiple barrier protection kit for the placement of a sharps container and subsequent mailing of the wastes to an approved disposal facility.

(9) "Pharmacy return programs" means those programs where sharps containers are returned by the user to designated return sites located at a pharmacy to be transported by a biomedical or solid waste collection company approved by the utilities and transportation commission.

(10) "Drop-off programs" means those program sites designated by the solid waste planning jurisdiction where sharps users may dispose of their sharps containers.

(11) "Source separation" has the same meaning as in RCW 70.95.030 (as recodified by this act).

(12) "Unprotected sharps" means residential sharps waste that are not disposed of in a sharps waste container.

Sec. 1242. RCW 70.95K.011 and 1992 c 14 s 3 are each amended to read as follows:

The definition of biomedical waste set forth in RCW 70.95K.010 (as recodified by this act) shall be the sole state definition for biomedical waste within the state, and shall preempt biomedical waste definitions established by a local health department or local government.

Sec. 1243. RCW 70.95L.010 and 1993 c 118 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 70.95L.005 through 70.95L.030 (as recodified by this act).

(1) "Department" means the department of ecology.

(2) "Dishwashing detergent" means a cleaning agent sold, used, or manufactured for the purpose of cleaning dishes, whether by hand or by household machine.

(3) "Laundry detergent" means a cleaning agent sold, used, or manufactured for the purpose of cleaning laundry, whether by hand or by household machine.

(4) "Person" means an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(5) "Phosphorus" means elemental phosphorus.

Sec. 1244. RCW 70.95L.040 and 1993 c 118 s 5 are each amended to read as follows:

The attorney general or appropriate city or county prosecuting attorney is authorized to bring an appropriate action to enjoin any violation of the provisions of RCW 70.95L.020 (as recodified by this act).

Sec. 1245. RCW 70.95M.080 and 2019 c 422 s 405 are each amended to read as follows:

A violation of this chapter is punishable by a civil penalty not to exceed one thousand dollars for each violation in the case of a first violation. Repeat violators are liable for a civil penalty not to exceed five thousand dollars for each repeat violation. Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70.105D.190 (as recodified by this act).

Sec. 1246. RCW 70.95M.110 and 2003 c 260 s 13 are each amended to read as follows:

Nothing in RCW 70.95M.020, 70.95M.050 (1), (3), or (4), or 70.95M.060 (as recodified by this act) applies to medical equipment or reagents used in medical or research tests regulated by the food and drug administration under the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.).

Sec. 1247. RCW 70.95N.020 and 2013 c 305 s 1 are each reenacted and amended to read as follows:

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

(1) "Authority" means the Washington materials management and financing authority created under RCW 70.95N.280 (as recodified by this act).

(2) "Authorized party" means a manufacturer who submits an individual independent plan or the entity authorized to submit an independent plan for more than one manufacturer.

(3) "Board" means the board of directors of the Washington materials management and financing authority created under RCW 70.95N.290 (as recodified by this act).

(4) "Collector" means an entity licensed to do business in the state that gathers unwanted covered electronic products from households, small businesses, school districts, small governments, and charities for the purpose of recycling and meets minimum standards that may be developed by the department.

(5) "Contract for services" means an instrument executed by the authority and one or more persons or entities that delineates collection, transportation, and recycling services, in whole or in part, that will be provided to the citizens of the state within service areas as described in the approved standard plan.

(6) "Covered electronic product" includes a cathode ray tube or flat panel computer monitor having a viewable area greater than four inches when measured diagonally, a desktop computer, a laptop or a portable computer, or a cathode ray tube or flat panel television having a viewable area greater than four

inches when measured diagonally that has been used in the state by any covered entity regardless of original point of purchase. "Covered electronic product" does not include: (a) A motor vehicle or replacement parts for use in motor vehicles or aircraft, or any computer, computer monitor, or television that is contained within, and is not separate from, the motor vehicle or aircraft; (b) monitoring and control instruments or systems; (c) medical devices; (d) products including materials intended for use as ingredients in those products as defined in the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or the virus-serum-toxin act of 1913 (21 U.S.C. Sec. 151 et seq.), and regulations issued under those acts; (e) equipment used in the delivery of patient care in a health care setting; (f) a computer, computer monitor, or television that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or (g) handheld portable voice or data devices used for commercial mobile services as defined in 47 U.S.C. Sec. 332 (d)(1).

(7) "Covered entity" means any household, charity, school district, small business, or small government located in Washington state.

(8) "Curbside service" means a collection service providing regularly scheduled pickup of covered electronic products from households or other covered entities in quantities generated from households.

(9) "Department" means the department of ecology.

(10) "Electronic product" includes a cathode ray tube or flat panel computer monitor having a viewable area greater than four inches when measured diagonally; a desktop computer; a laptop or a portable computer; or a cathode ray tube or flat screen television having a viewable area greater than four inches when measured diagonally.

(11) "Equivalent share" means the weight in pounds of covered electronic products identified for an individual manufacturer under this chapter as determined by the department under RCW 70.95N.200 (as recodified by this act).

(12) "Household" means a single detached dwelling unit or a single unit of a multiple dwelling unit and appurtenant structures.

(13) "Independent plan" means a plan for the collection, transportation, and recycling of unwanted covered electronic products that is developed, implemented, and financed by an individual manufacturer or by an authorized party.

(14) "Manufacturer" means any person, in business or no longer in business but having a successor in interest, who, irrespective of the selling technique used, including by means of distance or remote sale:

(a) Manufactures or has manufactured a covered electronic product under its own brand names for sale in or into this state;

(b) Assembles or has assembled a covered electronic product that uses parts manufactured by others for sale in or into this state under the assembler's brand names;

(c) Resells or has resold in or into this state under its own brand names a covered electronic product produced by other suppliers, including retail establishments that sell covered electronic products under their own brand names;

(d) Manufactures or manufactured a cobranded product for sale in or into this state that carries the name of both the manufacturer and a retailer;

(e) Imports or has imported a covered electronic product into the United States that is sold in or into this state. However, if the imported covered electronic product is manufactured by any person with a presence in the United States meeting the criteria of manufacturer under (a) through (d) of this subsection, that person is the manufacturer. For purposes of this subsection, "presence" means any person that performs activities conducted under the standards established for interstate commerce under the commerce clause of the United States Constitution;

(f) Sells at retail a covered electronic product acquired from an importer that is the manufacturer as described in (e) of this subsection, and elects to register in lieu of the importer as the manufacturer for those products; or

(g) Beginning in program year 2016, elects to assume the responsibility and register in lieu of a manufacturer as defined under this section. In the event the entity who assumes responsibility fails to comply, the manufacturer as defined under (a) through (f) of this subsection remains fully responsible.

(15) "Market share" means the percentage of covered electronic products by weight identified for an individual manufacturer, as determined by the department under RCW 70.95N.190 (as recodified by this act).

(16) "New entrant" means: (a) A manufacturer of televisions that have been sold in the state for less than ten years; or (b) a manufacturer of desktop computers, laptop and portable computers, or computer monitors that have been sold in the state for less than five years. However, a manufacturer of both televisions and computers or a manufacturer of both televisions and computer monitors that is deemed a new entrant under either only (a) or (b) of this subsection is not considered a new entrant for purposes of this chapter.

(17) "Orphan product" means a covered electronic product that lacks a manufacturer's brand or for which the manufacturer is no longer in business and has no successor in interest.

(18) "Plan's equivalent share" means the weight in pounds of covered electronic products for which a plan is responsible. A plan's equivalent share is equal to the sum of the equivalent shares of each manufacturer participating in that plan.

(19) "Plan's market share" means the sum of the market shares of each manufacturer participating in that plan.

(20) "Plan's return share" means the sum of the return shares of each manufacturer participating in that plan.

(21) "Premium service" means services such as at-location system upgrade services provided to covered entities and at-home pickup services offered to households. "Premium service" does not include curbside service.

(22) "Processor" means an entity engaged in disassembling, dismantling, or shredding electronic products to recover materials contained in the electronic products and prepare those materials for reclaiming or reuse in new products in accordance with processing standards established by this chapter and by the department. A processor may also salvage parts to be used in new products.

(23) "Product type" means one of the following categories: Computer monitors; desktop computers; laptop and portable computers; and televisions.

(24) "Program" means the collection, transportation, and recycling activities conducted to implement an independent plan or the standard plan.

(25) "Program year" means each full calendar year after the program has been initiated.

(26) "Recycling" means transforming or remanufacturing unwanted electronic products, components, and by-products into usable or marketable materials for use other than landfill disposal or incineration. "Recycling" does not include energy recovery or energy generation by means of combusting unwanted electronic products, components, and by-products with or without other waste. Smelting of electronic materials to recover metals for reuse in conformance with all applicable laws and regulations is not considered disposal or energy recovery.

(27) "Retailer" means a person who offers covered electronic products for sale at retail through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or the internet, but does not include a sale that is a wholesale transaction with a distributor or a retailer.

(28) "Return share" means the percentage of covered electronic products by weight identified for an individual manufacturer, as determined by the department under RCW 70.95N.190 (as recodified by this act).

(29) "Reuse" means any operation by which an electronic product or a component of a covered electronic product changes ownership and is used for the same purpose for which it was originally purchased.

(30) "Small business" means a business employing less than fifty people.

(31) "Small government" means a city in the state with a population less than fifty thousand, a county in the state with a population less than one hundred twenty-five thousand, and special purpose districts in the state.

(32) "Standard plan" means the plan for the collection, transportation, and recycling of unwanted covered electronic products developed, implemented, and financed by the authority on behalf of manufacturers participating in the authority.

(33) "Transporter" means an entity that transports covered electronic products from collection sites or services to processors or other locations for the purpose of recycling, but does not include any entity or person that hauls their own unwanted electronic products.

(34) "Unwanted electronic product" means a covered electronic product that has been discarded or is intended to be discarded by its owner.

(35) "White box manufacturer" means a person who manufactured unbranded covered electronic products offered for sale in the state within ten years prior to a program year for televisions or within five years prior to a program year for desktop computers, laptop or portable computers, or computer monitors.

Sec. 1248. RCW 70.95N.040 and 2013 c 305 s 2 are each amended to read as follows:

(1) By January 1, 2007, and annually thereafter, each manufacturer must register with the department.

(2) A manufacturer must submit to the department with each registration or annual renewal a fee to cover the administrative costs of this chapter as determined by the department under RCW 70.95N.230 (as recodified by this act).

(3) The department shall review the registration or renewal application and notify the manufacturer if their registration does not meet the requirements of this section. Within thirty days of receipt of such a notification from the department, the manufacturer must file with the department a revised registration addressing the requirements noted by the department.

(4) The registration must include the following information:

(a) The name and contact information of the manufacturer submitting the registration;

(b) The manufacturer's brand names of covered electronic products, including all brand names sold in the state in the past, all brand names currently being sold in the state, and all brand names for which the manufacturer has legal responsibility under RCW 70.95N.100 (as recodified by this act);

(c) The method or methods of sale used in the state; and

(d) Whether the registrant will be participating in the standard plan or submitting an independent plan to the department for approval.

(5) The registrant shall submit any changes to the information provided in the registration to the department within fourteen days of such change.

(6) The department shall identify, using all reasonable means, manufacturers that are in business or that are no longer in business but that have a successor in interest by examining best available return share data, product advertisements, and other pertinent data. The department shall notify manufacturers that have been identified and for whom an address has been found of the requirements of this chapter, including registration and plan requirements under this section and RCW 70.95N.050 (as recodified by this act).

Sec. 1249. RCW 70.95N.060 and 2006 c 183 s 6 are each amended to read as follows:

(1) All initial independent plans and the initial standard plan required under RCW 70.95N.050 (as recodified by this act) must be submitted to the department by February 1, 2008. The department shall review each independent plan and the standard plan.

(2) The authority submitting the standard plan and each authorized party submitting an independent plan to the department must pay a fee to the department to cover the costs of administering and implementing this chapter. The department shall set the fees as described under RCW 70.95N.230 (as recodified by this act).

(3) The fees in subsection (2) of this section apply to the initial plan submission and plan updates and revisions required in RCW 70.95N.070 (as recodified by this act).

(4) Within ninety days after receipt of a plan, the department shall determine whether the plan complies with this chapter. If the plan is approved, the department shall send a letter of approval. If a plan is rejected, the department shall provide the reasons for rejecting the plan to the authority or authorized party. The authority or authorized party must submit a new plan within sixty days after receipt of the letter of disapproval.

(5) An independent plan and the standard plan must contain the following elements:

(a) Contact information for the authority or authorized party and a comprehensive list of all manufacturers participating in the plan and their contact information;

(b) A description of the collection, transportation, and recycling systems and service providers used, including a description of how the authority or authorized party will:

(i) Seek to use businesses within the state, including retailers, charities, processors, and collection and transportation services;

(ii) Fairly compensate collectors for providing collection services; and

(iii) Fairly compensate processors for providing processing services;

(c) The method or methods for the reasonably convenient collection of all product types of covered electronic products in rural and urban areas throughout the state, including how the plan will provide for collection services in each county of the state and for a minimum of one collection site or alternate collection service for each city or town with a population greater than ten thousand. A collection site for a county may be the same as a collection site for a city or town in the county;

(d) A description of how the plan will provide service to small businesses, small governments, charities, and school districts in Washington;

(e) The processes and methods used to recycle covered electronic products including a description of the processing that will be used and the facility location;

(f) Documentation of audits of each processor used in the plan and compliance with processing standards established under RCW 70.95N.250 (~~and section 26 of this act~~) (as recodified by this act);

(g) A description of the accounting and reporting systems that will be employed to track progress toward the plan's equivalent share;

(h) A timeline describing start-up, implementation, and progress towards milestones with anticipated results;

(i) A public information campaign to inform consumers about how to recycle their covered electronic products at the end of the product's life; and

(j) A description of how manufacturers participating in the plan will communicate and work with processors utilized by that plan to promote and encourage design of electronic products and their components for recycling.

(6) The standard plan shall address how it will incorporate and fairly compensate registered collectors providing curbside or premium services such that they are not compensated at a lower rate for collection costs than the compensation offered other collectors providing drop-off collection sites in that geographic area.

(7) All transporters, collectors, and processors used to fulfill the requirements of this section must be registered as described in RCW 70.95N.240 (as recodified by this act).

Sec. 1250. RCW 70.95N.070 and 2006 c 183 s 7 are each amended to read as follows:

(1) An independent plan and the standard plan must be updated at least every five years and as required in (a) and (b) of this subsection.

(a) If the program fails to provide service in each county in the state or meet other plan requirements, the authority or authorized party shall submit to the department within sixty days of failing to provide service an updated plan addressing how the program will be adjusted to meet the program geographic coverage and collection service requirements established in RCW 70.95N.090 (as recodified by this act).

(b) The authority or authorized party shall notify the department of any modification to the plan. If the department determines that the authority or authorized party has significantly modified the program described in the plan, the authority or authorized party shall submit a revised plan describing the changes to the department within sixty days of notification by the department.

(2) Within sixty days after receipt of a revised plan, the department shall determine whether the revised plan complies with this chapter. If the revised plan is approved, the department shall send a letter of approval. If the revised plan is rejected, the department shall provide the reasons for rejecting the plan to the authority or authorized party. The authority or authorized party must submit a new plan revision within sixty days after receipt of the letter of disapproval.

(3) The authority or authorized parties may buy and sell collected covered electronic products with other programs without submitting a plan revision for review.

Sec. 1251. RCW 70.95N.080 and 2006 c 183 s 8 are each amended to read as follows:

(1) A manufacturer participating in an independent plan may join the standard plan by notifying the authority and the department of its intention at least five months prior to the start of the next program year.

(2) Manufacturers may not change from one plan to another plan during a program year.

(3) A manufacturer participating in the standard plan wishing to implement or participate in an independent plan may do so by complying with rules adopted by the department under RCW 70.95N.230 (as recodified by this act).

Sec. 1252. RCW 70.95N.130 and 2006 c 183 s 13 are each amended to read as follows:

(1) The electronic products recycling account is created in the custody of the state treasurer. All payments resulting from plans not reaching their equivalent share, as described in RCW 70.95N.220 (as recodified by this act), shall be deposited into the account. Any moneys collected for manufacturer registration fees, fees associated with reviewing and approving plans and plan revisions, and penalties levied under this chapter shall be deposited into the account.

(2) Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(3) Moneys in the account may be used solely by the department for the purposes of fulfilling department responsibilities specified in this chapter and for expenditures to the authority and authorized parties resulting from plans exceeding their equivalent share, as described in RCW 70.95N.220 (as recodified by this act). Funds in the account may not be diverted for any purpose or activity other than those specified in this section.

Sec. 1253. RCW 70.95N.140 and 2013 c 305 s 6 and 2013 c 292 s 1 are each reenacted and amended to read as follows:

(1) By March 1st of the second program year and each program year thereafter, the authority and each authorized party shall file with the department an annual report for the preceding program year.

(2) The annual report must include the following information:

(a) The total weight in pounds of each type of covered electronic products collected and recycled, by county, during the preceding program year including documentation verifying collection and processing of that material. The total weight in pounds includes orphan products. The report must also indicate and document the weight in pounds received from each nonprofit charitable organization primarily engaged in the business of reuse and resale used by the plan. The report must document the weight in pounds that were received in large quantities from small businesses, small governments, charities and school districts as described in RCW 70.95N.090(5) (as recodified by this act);

(b) The collection services provided in each county and for each city with a population over ten thousand including a list of all collection sites and services operating in the state in the prior program year and the parties who operated them;

(c)(i) A list of processors used, the weight of covered electronic products processed by each direct processor, and a description of the processes and methods used to recycle the covered electronic products including a description of the processing and facility locations. The report must also include a list of subcontractors who further processed or recycled unwanted covered electronic products or electronic components, including facility locations.

(ii) An estimate of the weight of each type of material recovered as a result of the processing of recycled covered electronic products. Recovered materials catalogued under this subsection must include, at a minimum: Cathode ray tube glass, circuit boards, batteries, mercury-containing devices, plastics, and metals.

(iii) An estimate of the percentage, by weight, of all collected products that ultimately are reused, recycled, or end up as residual waste that is disposed of in another manner;

(d) Educational and promotional efforts that were undertaken;

(e) For program years 2009 through 2014, the results of sampling and sorting as required in RCW 70.95N.110 (as recodified by this act), including a list of the brand names of covered electronic products by product type, the number of covered electronic products by product type, the weight of covered electronic products that are identified for each brand name or that lack a manufacturer's brand, and the total weight of the sample by product type;

(f) The list of manufacturers that are participating in the standard plan;

(g) A description of program revenues and costs, including: (i) The total cost of the program; and (ii) the average cost of the program per pound of covered electronic product collected;

(h) A detailed accounting of the following costs of the program: (i) Program delivery, including: (A) Education and promotional efforts; (B) collection; (C) transportation; and (D) processing and labor; and (ii) program administration;

(i) A description of the methods used by the program to collect, transport, recycle, and process covered electronic products; and

(j) Any other information deemed necessary by the department.

(3) The department shall review each report within ninety days of its submission and shall notify the authority or authorized party of any need for additional information or documentation, or any deficiency in its program.

(4) All reports submitted to the department must be available to the general public through the internet. Proprietary information submitted to the department under this chapter is exempt from public disclosure under RCW 42.56.270.

Sec. 1254. RCW 70.95N.170 and 2006 c 183 s 17 are each amended to read as follows:

No person may sell or offer for sale a covered electronic product to any person in this state unless the manufacturer of the covered electronic product has filed a registration with the department under RCW 70.95N.040 (as recodified by this act) and is participating in an approved plan under RCW 70.95N.050 (as recodified by this act). A person that sells or offers for sale a covered electronic product in the state shall consult the department's web site for lists of manufacturers with registrations and approved plans prior to selling a covered electronic product in the state. A person is considered to have complied with this section if on the date the product was ordered from the manufacturer or its agent, the manufacturer was listed as having registered and having an approved plan on the department's web site.

Sec. 1255. RCW 70.95N.180 and 2013 c 305 s 7 are each amended to read as follows:

(1) The department shall maintain on its web site the following information:

(a) The names of the manufacturers and the manufacturer's brands that are registered with the department under RCW 70.95N.040 (as recodified by this act);

(b) The names of the manufacturers and the manufacturer's brands that are participating in an approved plan under RCW 70.95N.050 (as recodified by this act);

(c) The names and addresses of the collectors and transporters that are listed in registrations filed with the department under RCW 70.95N.240 (as recodified by this act);

(d) The names and addresses of the processors used to fulfill the requirements of the plans;

(e) For program years 2009 through 2015, return and equivalent shares for all manufacturers.

(2) The department shall update this web site information promptly upon receipt of a registration or a report.

Sec. 1256. RCW 70.95N.190 and 2013 c 305 s 8 are each amended to read as follows:

(1) For program years 2009 through 2015, the department shall determine the return share for each manufacturer in the standard plan or an independent plan by dividing the weight of covered electronic products identified for each manufacturer by the total weight of covered electronic products identified for all manufacturers in the standard plan or an independent plan, then multiplying the quotient by one hundred.

(2) For the first program year, the department shall determine the return share for such manufacturers using all reasonable means and based on best available information regarding return share data from other states and other pertinent data.

(3) For 2014, the department shall determine the return share for such manufacturers using all reasonable means and based on the most recent sampling of covered electronic products conducted in the state under RCW 70.95N.110 (as recodified by this act).

(4)(a) For program year 2016 and all subsequent program years, the department shall determine market share by weight for all manufacturers using any combination of the following data:

- (i) Generally available market research data;
 - (ii) Sales data supplied by manufacturers for brands they manufacture or sell; or
 - (iii) Sales data provided by retailers for brands they sell.
- (b) The department shall determine each manufacturer's percentage of market share by dividing each manufacturer's total pounds of covered electronic products sold in Washington by the sum total of all pounds of covered electronic products sold in Washington by all manufacturers.

(5) Data reported by manufacturers under subsection (4) of this section is exempt from public disclosure under chapter 42.56 RCW.

Sec. 1257. RCW 70.95N.200 and 2013 c 305 s 9 are each amended to read as follows:

(1) For program years 2009 through 2015, the department shall determine the total equivalent share for each manufacturer in the standard plan or an independent plan by dividing the return share percentage for each manufacturer by one hundred, then multiplying the quotient by the total weight in pounds of covered electronic products collected for that program year, allowing as needed for the additional credit authorized in subsection (3) of this section. For program year 2016 and all subsequent program years, the department shall determine the total equivalent share for each manufacturer in the standard plan or an independent plan by dividing the market share percentage for each manufacturer by one hundred, then multiplying the quotient by the total weight in pounds of covered electronic products collected for that program year, allowing as needed for the additional credit authorized in subsection (3) of this section.

(2)(a) By June 1st of each program year, the department shall notify each manufacturer of the manufacturer's equivalent share of covered electronic products to be applied to the previous program year. The department shall also notify each manufacturer of how its equivalent share was determined.

(b) By June 1st of each program year, the department shall bill any authorized party or authority that has not attained its plan's equivalent share as determined under RCW 70.95N.220 (as recodified by this act). The authorized party or authority shall remit payment to the department within sixty days from the billing date.

(c) By September 1st of each program year, the department shall pay any authorized party or authority that exceeded its plan's equivalent share.

(3) Plans that utilize the collection services of nonprofit charitable organizations that qualify for a taxation exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) that are primarily engaged in the business of reuse and resale must be given an additional five percent credit to be applied toward a plan's equivalent share for pounds that are received for recycling from those organizations. The department may adjust the percentage of credit annually.

Sec. 1258. RCW 70.95N.230 and 2013 c 305 s 11 are each amended to read as follows:

(1) The department shall adopt rules to determine the process for manufacturers to change plans under RCW 70.95N.080 (as recodified by this act).

(2) The department shall establish annual registration and plan review fees for administering this chapter. An initial fee schedule must be established by rule and be adjusted no more often than once every two years. All fees charged must be based on factors relating to administering this chapter and be based on a sliding scale that is representative of annual sales of covered electronic products in the state, either by weight or unit, or by representative market share. Fees must be established in amounts to fully recover and not to exceed expenses incurred by the department to implement this chapter.

(3) The department shall establish an annual process for local governments and local communities to report their satisfaction with the services provided by plans under this chapter. This information must be used by the department in reviewing plan updates and revisions.

(4) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

Sec. 1259. RCW 70.95N.260 and 2006 c 183 s 27 are each amended to read as follows:

(1) No manufacturer may sell or offer for sale a covered electronic product in or into the state unless the manufacturer of the covered electronic product is participating in an approved plan. The department shall send a written warning to a manufacturer that does not have an approved plan or is not participating in an approved plan as required under RCW 70.95N.050 (as recodified by this act). The written warning must inform the manufacturer that it must participate in an approved plan within thirty days of the notice. Any violation after the initial written warning shall be assessed a penalty of up to ten thousand dollars for each violation.

(2) If the authority or any authorized party fails to implement their approved plan, the department must assess a penalty of up to five thousand dollars for the first violation along with notification that the authority or authorized party must implement its plan within thirty days of the violation. After thirty days, the authority or any authorized party failing to implement their approved plan must be assessed a penalty of up to ten thousand dollars for the second and each subsequent violation.

(3) Any person that does not comply with manufacturer registration requirements under RCW 70.95N.040 (as recodified by this act), education and outreach requirements under RCW 70.95N.120 (as recodified by this act), reporting requirements under RCW 70.95N.140 (as recodified by this act), labeling requirements under RCW 70.95N.160 (as recodified by this act), retailer responsibility requirements under RCW 70.95N.170 (as recodified by this act), collector or transporter registration requirements under RCW 70.95N.240 (as recodified by this act), or requirements under RCW 70.95N.250 (~~and section 26 of this act~~) (as recodified by this act), must first receive a written warning including a copy of the requirements under this chapter and thirty days to correct the violation. After thirty days, a person must be assessed a penalty of up to one thousand dollars for the first violation and up to two thousand dollars for the second and each subsequent violation.

(4) All penalties levied under this section must be deposited into the electronic products recycling account created under RCW 70.95N.130 (as recodified by this act).

(5) The department shall enforce this section.

Sec. 1260. RCW 70.95N.280 and 2006 c 183 s 29 are each amended to read as follows:

(1) The Washington materials management and financing authority is established as a public body corporate and politic, constituting an instrumentality of the state of Washington exercising essential governmental functions.

(2) The authority shall plan and implement a collection, transportation, and recycling program for manufacturers that have registered with the department their intent to participate in the standard program as required under RCW 70.95N.040 (as recodified by this act).

(3) Membership in the authority is comprised of registered participating manufacturers. Any registered manufacturer who does not qualify or is not approved to submit an independent plan, or whose independent plan has not been approved by the department, is a member of the authority. All new entrants and white box manufacturers are also members of the authority.

(4) The authority shall act as a business management organization on behalf of the citizens of the state to manage financial resources and contract for services for collection, transportation, and recycling of covered electronic products.

(5) The authority's standard plan is responsible for collecting, transporting, and recycling the sum of the equivalent shares of each participating manufacturer.

(6) The authority shall accept into the standard program covered electronic products from any registered collector who meets the requirements of this chapter. The authority shall compensate registered collectors for the reasonable costs associated with collection, but is not required to compensate nor restricted from compensating the additional collection costs resulting from the additional convenience offered to customers through premium and curbside services.

(7) The authority shall accept and utilize in the standard program any registered processor meeting the requirements of this chapter and any requirements described in the authority's operating plan or through contractual arrangements. Processors utilized by the standard plan shall provide documentation to the authority at least annually regarding how they are meeting the requirements in RCW 70.95N.250 (~~and section 26 of this act~~) (as recodified by this act), including enough detail to allow the standard plan to meet its reporting requirements in RCW 70.95N.140(2)(c) (~~and (d)~~) (as recodified by this act), and must submit to audits conducted by or for the authority. The authority shall compensate such processors for the reasonable costs, as determined by the authority, associated with processing unwanted electronic products. Such processors must demonstrate that the unwanted electronic products have been received from registered collectors or transporters, and provide other documentation as may be required by the authority.

(8) Except as specifically allowed in this chapter, the authority shall operate without using state funds or lending the credit of the state or local governments.

(9) The authority shall develop innovative approaches to improve materials management efficiency in order to ensure and increase the use of secondary material resources within the economy.

Sec. 1261. RCW 70.95N.300 and 2013 c 305 s 13 are each amended to read as follows:

(1) Manufacturers participating in the standard plan shall pay the authority to cover all administrative and operational costs associated with the collection, transportation, and recycling of covered electronic products within the state of Washington incurred by the standard program operated by the authority to meet the standard plan's equivalent share obligation as described in RCW 70.95N.280(5) (as recodified by this act).

(2) The authority shall assess charges on each manufacturer participating in the standard plan and collect funds from each participating manufacturer for the manufacturer's portion of the costs in subsection (1) of this section. For program years 2009 through 2015, such apportionment must be based on return share, market share, any combination of return share and market share, or any other equitable method. For the 2016 program year and all subsequent program years, such apportionment must be based on market share. The authority's apportionment of costs to manufacturers participating in the standard plan may not include nor be based on electronic products imported through the state and subsequently exported outside the state. Charges assessed under this section must not be formulated in such a way as to create incentives to divert imported electronic products to ports or distribution centers in other states. The authority shall adjust the charges to manufacturers participating in the standard plan as necessary in order to ensure that all costs associated with the identified activities are covered.

(3) The authority may require financial assurances or performance bonds for manufacturers participating in the standard plan, including but not limited to new entrants and white box manufacturers, when determining equitable methods for apportioning costs to ensure that the long-term costs for collecting, transporting, and recycling of a covered electronic product are borne by the appropriate manufacturer in the event that the manufacturer ceases to participate in the program.

(4) Nothing in this section authorizes the authority to assess fees or levy taxes directly on the sale or possession of electronic products.

(5) If a manufacturer has not met its financial obligations as determined by the authority under this section, the authority shall notify the department that the manufacturer is no longer participating in the standard plan.

(6) For program years 2009 through 2015, the authority shall submit its plan for assessing charges and apportioning cost on manufacturers participating in the standard plan to the department for review and approval along with the standard plan as provided in RCW 70.95N.060 (as recodified by this act).

(7)(a) Any manufacturer participating in the standard plan may appeal an assessment of charges or apportionment of costs levied by the authority under this section by written petition to the director of the department. The director of the department or the director's designee shall review all appeals within timelines established by the department and shall reverse any assessments of charges or apportionment of costs if the director finds that the authority's assessments or apportionment of costs was an arbitrary administrative decision,

an abuse of administrative discretion, or is not an equitable assessment or apportionment of costs. The director shall make a fair and impartial decision based on sound data. If the director of the department reverses an assessment of charges, the authority must redetermine the assessment or apportionment of costs.

(b) Disputes regarding a final decision made by the director or director's designee may be challenged through arbitration. The director shall appoint one member to serve on the arbitration panel and the challenging party shall appoint one other. These two persons shall choose a third person to serve. If the two persons cannot agree on a third person, the presiding judge of the Thurston county superior court shall choose a third person. The decision of the arbitration panel shall be final and binding, subject to review by the superior court solely upon the question of whether the decision of the panel was arbitrary or capricious.

Sec. 1262. RCW 70.95N.310 and 2006 c 183 s 32 are each amended to read as follows:

(1) The authority shall use any funds legally available to it for any purpose specifically authorized by this chapter to:

(a) Contract and pay for collecting, transporting, and recycling of covered electronic products and education and other services as identified in the standard plan;

(b) Pay for the expenses of the authority including, but not limited to, salaries, benefits, operating costs and consumable supplies, equipment, office space, and other expenses related to the costs associated with operating the authority;

(c) Pay into the electronic products recycling account amounts billed by the department to the authority for any deficit in reaching the standard plan's equivalent share as required under RCW 70.95N.220 (as recodified by this act); and

(d) Pay the department for the fees for submitting the standard plan and any plan revisions.

(2) If practicable, the authority shall avoid creating new infrastructure already available through private industry in the state.

(3) The authority may not receive an appropriation of state funds, other than:

(a) Funds that may be provided as a one-time loan to cover administrative costs associated with start-up of the authority, such as electing the board of directors and conducting the public hearing for the operating plan, provided that no appropriated funds may be used to pay for collection, transportation, or recycling services; and

(b) Funds received from the department from the electronic products recycling account for exceeding the standard plan's equivalent share.

(4) The authority may receive additional sources of funding that do not obligate the state to secure debt.

(5) All funds collected by the authority under this chapter, including interest, dividends, and other profits, are and must remain under the complete control of the authority and its board of directors, be fully available to achieve the intent of this chapter, and be used for the sole purpose of achieving the intent of this chapter.

Sec. 1263. RCW 70.98.020 and 1975-'76 2nd ex.s. c 108 s 13 are each amended to read as follows:

It is the purpose of this chapter to effectuate the policies set forth in RCW 70.98.010 (as recodified by this act) as now or hereafter amended by providing for:

(1) A program of effective regulation of sources of ionizing radiation for the protection of the occupational and public health and safety;

(2) A program to promote an orderly regulatory pattern within the state, among the states and between the federal government and the state and facilitate intergovernmental cooperation with respect to use and regulation of sources of ionizing radiation to the end that duplication of regulation may be minimized;

(3) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to by-product, source, and special nuclear materials.

Sec. 1264. RCW 70.98.085 and 2012 c 19 s 9 are each amended to read as follows:

(1) The agency is empowered to administer a user permit system and issue site use permits for generators, packagers, or brokers to use the commercial low-level radioactive waste disposal facility. The agency may issue a site use permit consistent with the requirements of this chapter and the rules adopted under it and the requirements of the Northwest Interstate Compact on Low-Level Radioactive Waste Management under chapter 43.145 RCW (as recodified by this act). The agency may deny an application for a site use permit or modify, suspend, or revoke a site use permit in any case in which it finds that the permit was obtained by fraud or there is or has been a failure, refusal, or inability to comply with the requirements of this chapter or rules adopted under this chapter or the requirements of the Northwest Interstate Compact on Low-Level Radioactive Waste Management under chapter 43.145 RCW (as recodified by this act). The agency may also deny or suspend a site use permit for failure to comply with RCW 43.200.230 (as recodified by this act).

(2) Any permit issued by the department of ecology for a site use permit pursuant to chapter 43.200 RCW (as recodified by this act) is valid until the first expiration date that occurs after July 1, 2012.

(3) The agency shall collect a fee from the applicants for site use permits that is sufficient to fund the costs to the agency to administer the user permit system. The site use permit fee must be set at a level that is also sufficient to fund state participation in activities related to the Northwest Interstate Compact on Low-Level Radioactive Waste Management under chapter 43.145 RCW (as recodified by this act). The site use permit fees must be deposited in the site closure account established in RCW 43.200.080(2) (as recodified by this act). Appropriations to the department of health or the department of ecology are required to permit expenditures using site use permit fee funds from the site closure account.

(4) The agency shall collect a surveillance fee as an added charge on each cubic foot of low-level radioactive waste disposed of at the commercial low-level radioactive waste disposal site in this state which shall be set at a level that is sufficient to fund completely the radiation control activities of the agency directly related to the disposal site, including but not limited to the management, licensing, monitoring, and regulation of the site. The fee shall also provide funds

to the Washington state patrol for costs incurred from inspection of low-level radioactive waste shipments entering this state. Disbursements for this purpose shall be by authorization of the secretary of the department of health or the secretary's designee.

(5) The agency shall require that any person who holds or applies for a permit under this chapter indemnify and hold harmless the state from claims, suits, damages, or expenses on account of injuries to or death of persons and property damage, arising or growing out of any operations and activities for which the person holds the permit, and any necessary or incidental operations.

(6) The agency may adopt such rules as are necessary to carry out its responsibilities under this section.

Sec. 1265. RCW 70.98.095 and 2012 c 19 s 10 are each amended to read as follows:

(1) The radiation control agency may require any person who applies for, or holds, a license under this chapter to demonstrate that the person has financial assurance sufficient to assure that liability incurred as a result of licensed operations and activities can be fully satisfied. Financial assurance may be in the form of insurance, cash deposits, surety bonds, corporate guarantees, letters of credit, or other financial instruments or guarantees determined by the agency to be acceptable financial assurance. The agency may require financial assurance in an amount determined by the secretary pursuant to RCW 70.98.098 (as recodified by this act).

(2) The radiation control agency may require site use permit holders to demonstrate financial assurance in an amount that is adequate to protect the state and its citizens from all claims, suits, losses, damages, or expenses on account of injuries to persons and property damage arising or growing out of the transportation or disposal of commercial low-level radioactive waste. The financial assurance may be in the form of insurance, cash deposits, surety bonds, corporate guarantees, and other acceptable instruments or guarantees determined by the secretary to be acceptable evidence of financial assurance. The agency may require financial assurance in an amount determined by the secretary pursuant to RCW 70.98.098 (as recodified by this act).

(3) The radiation control agency shall refuse to issue a license or permit or suspend the license or permit of any person required by this section to demonstrate financial assurance who fails to demonstrate compliance with this section. The license or permit shall not be issued or reinstated until the person demonstrates compliance with this section.

(4) The radiation control agency shall require (a) that any person required to demonstrate financial assurance, maintain with the agency current copies of any insurance policies, certificates of insurance, letters of credit, surety bonds, or any other documents used to comply with this section, (b) that the agency be notified of any changes in the financial assurance or financial condition of the person, and (c) that the state be named as an insured party on any insurance policy used to comply with this section.

Sec. 1266. RCW 70.98.098 and 2012 c 19 s 11 are each amended to read as follows:

(1) In making the determination of the appropriate level of financial assurance, the secretary shall consider: (a) Any report prepared by the

department of ecology pursuant to RCW 43.200.200 (as recodified by this act); (b) the potential cost of decontamination, treatment, disposal, decommissioning, and cleanup of facilities or equipment; (c) federal cleanup and decommissioning requirements; and (d) the legal defense cost, if any, that might be paid from the required financial assurance.

(2) The secretary may establish different levels of required financial assurance for various classes of permit or license holders.

(3) The secretary shall establish by rule the instruments or mechanisms by which a person may demonstrate financial assurance as required by RCW 70.98.095 (as recodified by this act).

(4) To the extent that money in the site closure account together with the amount of money identified for repayment to the site closure account pursuant to RCW 43.200.080 (as recodified by this act) equals or exceeds the cost estimate approved by the department of health for closure and decommissioning of the commercial low-level radioactive waste disposal facility, the money in the site closure account together with the amount of money identified for repayment to the site closure account shall constitute adequate financial assurance for purposes of the department of health financial assurance requirements under RCW 70.98.095 (as recodified by this act).

Sec. 1267. RCW 70.98.122 and 1985 c 372 s 3 are each amended to read as follows:

The department of ecology shall seek federal funding, such as is available under the clean air act (42 U.S.C. Sec. 1857 et seq.) and the nuclear waste policy act (42 U.S.C. Sec. 10101 et seq.) to carry out the purposes of RCW 70.98.050(4)~~((e))~~ (e) (as recodified by this act).

Sec. 1268. RCW 70.98.220 and 2012 c 19 s 13 are each amended to read as follows:

The agency shall adopt rules for administering a site use permit program under RCW 70.98.085 (as recodified by this act).

Sec. 1269. RCW 70.98.910 and 1961 c 207 s 23 are each amended to read as follows:

The provisions of this act relating to the control of by-product, source and special nuclear materials shall become effective on the effective date of the agreement between the federal government and this state as authorized in RCW 70.98.110 (as recodified by this act). All other provisions of this act shall become effective on the 30th day of June, 1961.

Sec. 1270. RCW 70.99.050 and 1981 c 1 s 5 are each amended to read as follows:

(1) A violation of or failure to comply with the provisions of RCW 70.99.030 or 70.99.040 (as recodified by this act) is a gross misdemeanor.

(2) Any person or entity that violates or fails to comply with the provisions of RCW 70.99.030 or 70.99.040 (as recodified by this act) is subject to a civil penalty of one thousand dollars for each violation or failure to comply.

(3) Each day upon which a violation occurs constitutes a separate violation for the purposes of subsections (1) and (2) of this section.

(4) Any person or entity violating this chapter may be enjoined from continuing the violation. The attorney general or any person residing in the state of Washington may bring an action to enjoin violations of this chapter, on his or

her own behalf and on the behalf of all persons similarly situated. Such action may be maintained in the person's own name or in the name of the state of Washington. No bond may be required as a condition to obtaining any injunctive relief. The superior courts have jurisdiction over actions brought under this section, and venue shall lie in the county of the plaintiff's residence, in the county in which the violation is alleged to occur, or in Thurston county. In addition to other relief, the court in its discretion may award attorney's and expert witness fees and costs of the suit to a party who demonstrates that a violation of this chapter has occurred.

Sec. 1271. RCW 70.102.020 and 2005 c 274 s 339 are each amended to read as follows:

There is hereby created the hazardous substance information and education office. Through this office the department shall:

(1) Facilitate access to existing information on hazardous substances within a community;

(2) Request and obtain information about hazardous substances at specified locations and facilities from agencies that regulate those locations and facilities. The department shall review, approve, and provide confidentiality as provided by statute. Upon request of the department, each agency shall provide the information within forty-five days;

(3) At the request of citizens or public health or public safety organizations, compile existing information about hazardous substance use at specified locations and facilities. This information shall include but not be limited to:

(a) Point and nonpoint air and water emissions;

(b) Extremely hazardous, moderate risk wastes and dangerous wastes as defined in chapter 70.105 RCW (as recodified by this act) produced, used, stored, transported from, or disposed of by any facility;

(c) A list of the hazardous substances present at a given site and data on their acute and chronic health and environmental effects;

(d) Data on governmental pesticide use at a given site;

(e) Data on commercial pesticide use at a given site if such data is only given to individuals who are chemically sensitive; and

(f) Compliance history of any facility.

(4) Provide education to the public on the proper production, use, storage, and disposal of hazardous substances, including but not limited to:

(a) A technical resource center on hazardous substance management for industry and the public;

(b) Programs, in cooperation with local government, to educate generators of moderate risk waste, and provide information regarding the potential hazards to human health and the environment resulting from improper use and disposal of the waste and proper methods of handling, reducing, recycling, and disposing of the waste;

(c) Public information and education relating to the safe handling and disposal of hazardous household substances; and

(d) Guidelines to aid counties in developing and implementing a hazardous household substances program.

Requests for information from the hazardous substance information and education office may be made by letter or by a toll-free telephone line, if one is

established by the department. Requests shall be responded to in accordance with chapter 42.56 RCW.

This section shall not require any agency to compile information that is not required by existing laws or rules.

Sec. 1272. RCW 70.103.030 and 2010 c 158 s 3 are each amended to read as follows:

(1) The department shall administer and enforce a state program for worker training and certification, and training program accreditation, which shall include those program elements necessary to assume responsibility for federal requirements for a program as set forth in Title IV of the toxic substances control act (15 U.S.C. Sec. 2601 et seq.), the residential lead-based paint hazard reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.), 40 C.F.R. Part 745, Subparts L and Q (1996), and Title X of the housing and community development act of 1992 (P.L. 102-550). The department may delegate or enter into a memorandum of understanding with local governments or private entities for implementation of components of the state program.

(2) The department is authorized to adopt rules that are consistent with federal requirements to implement a state program. Rules adopted under this section shall:

(a) Establish minimum accreditation requirements for lead-based paint activities for training providers;

(b) Establish work practice standards for conduct of lead-based paint activities;

(c) Establish certification requirements for individuals and firms engaged in lead-based paint activities including provisions for recognizing certifications accomplished under existing certification programs;

(d) Require the use of certified personnel in all lead-based paint activities;

(e) Be revised as necessary to comply with federal law and rules and to maintain eligibility for federal funding;

(f) Facilitate reciprocity and communication with other states having a lead-based paint certification program;

(g) Provide for decertification, deaccreditation, and financial assurance for a person certified by or a training provider accredited by the department; and

(h) Be issued in accordance with the administrative procedure act, chapter 34.05 RCW.

(3) The department may accept federal funds for the administration of the program.

(4) This program shall equal, but not exceed, legislative authority under federal requirements as set forth in Title IV of the toxic substances control act (15 U.S.C. Sec. 2601 et seq.), the residential lead-based paint hazard reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.), and Title X of the housing and community development act of 1992 (P.L. 102-550).

(5) Any rules adopted by the department shall be consistent with federal laws, regulations, and requirements relating to lead-based paint activities specified by the residential lead-based paint hazard reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.) and Title X of the housing and community development act of 1992 (P.L. 102-550), and rules adopted pursuant to chapter 70.105D RCW (as recodified by this act), to ensure consistency in regulatory

action. The rules may not be more restrictive than corresponding federal and state regulations unless such stringency is specifically authorized by this chapter.

(6) The department shall collect a fee in the amount of twenty-five dollars for certification and recertification of lead paint firms, inspectors, project developers, risk assessors, supervisors, abatement workers, renovators, and dust sampling technicians.

(7) The department shall collect a fee in the amount of two hundred dollars for the accreditation of lead paint training programs.

Sec. 1273. RCW 70.103.040 and 2010 c 158 s 4 are each amended to read as follows:

(1) The department shall establish a program for certification of persons involved in lead-based paint activities and for accreditation of training providers in compliance with federal laws and rules.

(2) Rules adopted under this section shall:

(a) Establish minimum accreditation requirements for lead-based paint activities for training providers;

(b) Establish work practice standards for conduct of lead-based paint activities;

(c) Establish certification requirements for individuals and firms engaged in lead-based paint activities including provisions for recognizing certifications accomplished under existing certification programs;

(d) Require the use of certified personnel in any lead-based paint hazard reduction activity;

(e) Be revised as necessary to comply with federal law and rules and to maintain eligibility for federal funding;

(f) Facilitate reciprocity and communication with other states having a lead-based paint certification program;

(g) Provide for decertification, deaccreditation, and financial assurance for a person certified or accredited by the department; and

(h) Be issued in accordance with the administrative procedure act, chapter 34.05 RCW.

(3) This program shall equal, but not exceed, legislative authority under federal requirements as set forth in Title IV of the toxic substances control act (15 U.S.C. Sec. 2601 et seq.), the residential lead-based paint hazard reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.), 40 C.F.R. Part 745 (1996), Subparts L and Q, and Title X of the housing and community development act of 1992 (P.L. 102-550).

(4) Any rules adopted by the department shall be consistent with federal laws, regulations, and requirements relating to lead-based paint activities specified by the residential lead-based paint hazard reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.) and Title X of the housing and community development act of 1992 (P.L. 102-550), and rules adopted pursuant to chapter 70.105D RCW (as recodified by this act), to ensure consistency in regulatory action. The rules may not be more restrictive than corresponding federal and state regulations unless such stringency is specifically authorized by this chapter.

(5) The department may accept federal funds for the administration of the program.

(6) For the purposes of certification under the federal requirements as set forth in section 2682 of the toxic substances control act (15 U.S.C. Sec. 2682),

the department may require renovators and dust sampling technicians to apply for a certification badge issued by the department. The department may impose a fee on the applicant for processing the application. The application shall include a photograph of the applicant and a fee in the amount imposed by the department.

Sec. 1274. RCW 70.103.050 and 2010 c 158 s 5 are each amended to read as follows:

The department shall adopt rules to:

(1) Establish procedures and requirements for the accreditation of lead-based paint activities training programs including, but not limited to, the following:

- (a) Training curriculum;
- (b) Training hours;
- (c) Hands-on training;
- (d) Trainee competency and proficiency;
- (e) Training program quality control;
- (f) Procedures for the reaccreditation of training programs;
- (g) Procedures for the oversight of training programs; and
- (h) Procedures for the suspension, revocation, or modification of training

program accreditations, or acceptance of training offered by an accredited training provider in another state or Indian tribe authorized by the environmental protection agency;

(2) Establish procedures for the purposes of certification, for the acceptance of training offered by an accredited training provider in a state or Indian tribe authorized by the environmental protection agency;

(3) Certify individuals involved in lead-based paint activities to ensure that certified individuals are trained by an accredited training program and possess appropriate educational or experience qualifications for certification;

(4) Establish procedures for recertification;

(5) Require the conduct of lead-based paint activities in accordance with work practice standards;

(6) Establish procedures for the suspension, revocation, or modification of certifications;

(7) Establish requirements for the administration of third-party certification exams;

(8) Use laboratories accredited under the environmental protection agency's national lead laboratory accreditation program;

(9) Establish work practice standards for the conduct of lead-based paint activities, as defined in RCW 70.103.020 (as recodified by this act);

(10) Establish an enforcement response policy that shall include:

(a) Warning letters, notices of noncompliance, notices of violation, or the equivalent;

(b) Administrative or civil actions, including penalty authority, including accreditation or certification suspension, revocation, or modification; and

(c) Authority to apply criminal sanctions or other criminal authority using existing state laws as applicable.

The department shall prepare and submit a biennial report to the legislature regarding the program's status, its costs, and the number of persons certified by the program.

Sec. 1275. RCW 70.103.060 and 2003 c 322 s 6 are each amended to read as follows:

The lead paint account is created in the state treasury. All receipts from RCW 70.103.030 (as recodified by this act) 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 of this chapter.

Sec. 1276. RCW 70.103.070 and 2003 c 322 s 7 are each amended to read as follows:

(1)(a) The director or the director's designee is authorized to inspect at reasonable times and, when feasible, with at least twenty-four hours prior notification:

(i) Premises or facilities where those engaged in training for lead-based paint activities conduct business; and

(ii) The business records of, and take samples at, the businesses accredited or certified under this chapter to conduct lead-based paint training or activities.

(b) Any accredited training program or any firm or individual certified under this chapter that denies access to the department for the purposes of (a) of this subsection is subject to deaccreditation or decertification under RCW 70.103.040 (as recodified by this act).

(2) The director or the director's designee is authorized to inspect premises or facilities, with the consent of the owner or owner's agent, where violations may occur concerning lead-based paint activities, as defined under RCW 70.103.020 (as recodified by this act), at reasonable times and, when feasible, with at least forty-eight hours prior notification of the inspection.

(3) Prior to receipt of federal lead-based paint abatement funding, all premise or facility owners shall be notified by any entity that receives and disburses the federal funds that an inspection may be conducted. If a premise or facility owner does not wish to have an inspection conducted, that owner is not eligible to receive lead-based paint abatement funding.

Sec. 1277. RCW 70.105.005 and 1985 c 448 s 2 are each amended to read as follows:

The legislature hereby finds and declares:

(1) The health and welfare of the people of the state depend on clean and pure environmental resources unaffected by hazardous waste contamination. At the same time, the quality of life of the people of the state is in part based upon a large variety of goods produced by the economy of the state. The complex industrial processes that produce these goods also generate waste by-products, some of which are hazardous to the public health and the environment if improperly managed.

(2) Safe and responsible management of hazardous waste is necessary to prevent adverse effects on the environment and to protect public health and safety.

(3) The availability of safe, effective, economical, and environmentally sound facilities for the management of hazardous waste is essential to protect public health and the environment and to preserve the economic strength of the state.

(4) Strong and effective enforcement of federal and state hazardous waste laws and regulations is essential to protect the public health and the environment

and to meet the public's concerns regarding the acceptance of needed new hazardous waste management facilities.

(5) Negotiation, mediation, and similar conflict resolution techniques are useful in resolving concerns over the local impacts of siting hazardous waste management facilities.

(6) Safe and responsible management of hazardous waste requires an effective planning process that involves local and state governments, the public, and industry.

(7) Public acceptance and successful siting of needed new hazardous waste management facilities depends on several factors, including:

(a) Public confidence in the safety of the facilities;

(b) Assurance that the hazardous waste management priorities established in this chapter are being carried out to the maximum degree practical;

(c) Recognition that all state citizens benefit from certain products whose manufacture results in the generation of hazardous by-products, and that all state citizens must, therefore, share in the responsibility for finding safe and effective means to manage this hazardous waste; and

(d) Provision of adequate opportunities for citizens to meet with facility operators and resolve concerns about local hazardous waste management facilities.

(8) Due to the controversial and regional nature of facilities for the disposal and incineration of hazardous waste, the facilities have had difficulty in obtaining necessary local approvals. The legislature finds that there is a statewide interest in assuring that such facilities can be sited.

It is therefore the intent of the legislature to preempt local government's authority to approve, deny, or otherwise regulate disposal and incineration facilities, and to vest in the department of ecology the sole authority among state, regional, and local agencies to approve, deny, and regulate preempted facilities, as defined in this chapter.

In addition, it is the intent of the legislature that such complete preemptive authority also be vested in the department for treatment and storage facilities, in addition to disposal and incineration facilities, if a local government fails to carry out its responsibilities established in RCW 70.105.225 (as recodified by this act).

It is further the intent of the legislature that no local ordinance, permit requirement, other requirement, or decision shall prohibit on the basis of land use considerations the construction of a hazardous waste management facility within any zone designated and approved in accordance with this chapter, provided that the proposed site for the facility is consistent with applicable state siting criteria.

(9) With the exception of the disposal site authorized for acquisition under this chapter, the private sector has had the primary role in providing hazardous waste management facilities and services in the state. It is the intent of the legislature that this role be encouraged and continue into the future to the extent feasible. Whether privately or publicly owned and operated, hazardous waste management facilities and services should be subject to strict governmental regulation as provided under this chapter.

(10) Wastes that are exempt or excluded from full regulation under this chapter due to their small quantity or household origin have the potential to pose

significant risk to public health and the environment if not properly managed. It is the intent of the legislature that the specific risks posed by such waste be investigated and assessed and that programs be carried out as necessary to manage the waste appropriately. In addition, the legislature finds that, because local conditions vary substantially in regard to the quantities, risks, and management opportunities available for such wastes, local government is the appropriate level of government to plan for and carry out programs to manage moderate-risk waste, with assistance and coordination provided by the department.

Sec. 1278. RCW 70.105.010 and 2010 1st sp.s. c 7 s 88 are each amended to read as follows:

The words and phrases defined in this section shall have the meanings indicated when used in this chapter unless the context clearly requires otherwise.

(1) "Dangerous wastes" means any discarded, useless, unwanted, or abandoned substances, including but not limited to certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:

(a) Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or

(b) Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.

(2) "Department" means the department of ecology.

(3) "Designated zone facility" means any facility that requires an interim or final status permit under rules adopted under this chapter and that is not a preempted facility as defined in this section.

(4) "Director" means the director of the department of ecology or the director's designee.

(5) "Disposal site" means a geographical site in or upon which hazardous wastes are disposed of in accordance with the provisions of this chapter.

(6) "Dispose or disposal" means the discarding or abandoning of hazardous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned.

(7) "Extremely hazardous waste" means any dangerous waste which:

(a) Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form

(i) Presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic makeup of human beings or wildlife, and

(ii) Is highly toxic to human beings or wildlife

(b) If disposed of at a disposal site in such quantities as would present an extreme hazard to human beings or the environment.

(8) "Facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for recycling, storing, treating, incinerating, or disposing of hazardous waste.

(9) "Hazardous household substances" means those substances identified by the department as hazardous household substances in the guidelines developed under RCW 70.105.220 (as recodified by this act).

(10) "Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste as described in rules adopted under this chapter.

(11) "Hazardous waste" means and includes all dangerous and extremely hazardous waste, including substances composed of both radioactive and hazardous components.

(12) "Local government" means a city, town, or county.

(13) "Moderate-risk waste" means (a) any waste that exhibits any of the properties of hazardous waste but is exempt from regulation under this chapter solely because the waste is generated in quantities below the threshold for regulation, and (b) any household wastes which are generated from the disposal of substances identified by the department as hazardous household substances.

(14) "Person" means any person, firm, association, county, public or municipal or private corporation, agency, or other entity whatsoever.

(15) "Pesticide" shall have the meaning of the term as defined in RCW 15.58.030 as now or hereafter amended.

(16) "Preempted facility" means any facility that includes as a significant part of its activities any of the following operations: (a) Landfill, (b) incineration, (c) land treatment, (d) surface impoundment to be closed as a landfill, or (e) waste pile to be closed as a landfill.

(17) "Service charge" means an assessment imposed under RCW 70.105.280 (as recodified by this act) against those facilities that store, treat, incinerate, or dispose of dangerous or extremely hazardous waste that contains both a nonradioactive hazardous component and a radioactive component. Service charges shall also apply to facilities undergoing closure under this chapter in those instances where closure entails the physical characterization of remaining wastes which contain both a nonradioactive hazardous component and a radioactive component or the management of such wastes through treatment or removal, except any commercial low-level radioactive waste facility.

Sec. 1279. RCW 70.105.020 and 1994 c 264 s 42 are each amended to read as follows:

The department after notice and public hearing shall:

(1) Adopt regulations designating as extremely hazardous wastes subject to the provisions of this chapter those substances which exhibit characteristics consistent with the definition provided in RCW 70.105.010~~((6))~~ (7) (as recodified by this act);

(2) Adopt and may revise when appropriate, minimum standards and regulations for disposal of extremely hazardous wastes to protect against hazards to the public, and to the environment. Before adoption of such standards and regulations, the department shall consult with appropriate agencies of interested local governments and secure technical assistance from the department of agriculture, the department of social and health services, the department of fish and wildlife, the department of natural resources, the department of labor and industries, and the department of ~~((community, trade, and economic development))~~ commerce, through the director of fire protection.

Sec. 1280. RCW 70.105.035 and 1994 c 254 s 5 are each amended to read as follows:

Solid wastes that designate as dangerous waste or extremely hazardous waste but do not designate as hazardous waste under federal law are conditionally exempt from the requirements of this chapter, if:

(1) The waste is generated pursuant to a consent decree issued under chapter 70.105D RCW (as recodified by this act);

(2) The consent decree characterizes the solid waste and specifies management practices and a department-approved treatment or disposal location;

(3) The management practices are consistent with RCW 70.105.150 (as recodified by this act) and are protective of human health and the environment as determined by the department of ecology; and

(4) Waste treated or disposed of on-site will be managed in a manner determined by the department to be as protective of human health and the environment as clean-up standards pursuant to chapter 70.105D RCW (as recodified by this act).

This section shall not be interpreted to limit the ability of the department to apply any requirement of this chapter through a consent decree issued under chapter 70.105D RCW (as recodified by this act), if the department determines these requirements to be appropriate. Neither shall this section be interpreted to limit the application of this chapter to a cleanup conducted under the federal comprehensive environmental response, compensation, and liability act (42 U.S.C. Sec. 9601 et seq., as amended).

Sec. 1281. RCW 70.105.050 and 1994 c 254 s 6 are each amended to read as follows:

(1) No person shall dispose of designated extremely hazardous wastes at any disposal site in the state other than the disposal site established and approved for such purpose under provisions of this chapter, except:

(a) When such wastes are going to a processing facility which will result in the waste being reclaimed, treated, detoxified, neutralized, or otherwise processed to remove its harmful properties or characteristics; or

(b) When such wastes are managed on-site as part of a remedial action conducted by the department or by potentially liable persons under a consent decree issued by the department pursuant to chapter 70.105D RCW (as recodified by this act).

(2) Extremely hazardous wastes that contain radioactive components may be disposed at a radioactive waste disposal site that is (a) owned by the United States department of energy or a licensee of the nuclear regulatory commission and (b) permitted by the department and operated in compliance with the provisions of this chapter. However, prior to disposal, or as a part of disposal, all reasonable methods of treatment, detoxification, neutralization, or other waste management methodologies designed to mitigate hazards associated with these wastes shall be employed, as required by applicable federal and state laws and regulations.

Sec. 1282. RCW 70.105.090 and 2011 c 96 s 51 are each amended to read as follows:

In addition to the penalties imposed pursuant to RCW 70.105.080 (as recodified by this act), any person who violates any provisions of this chapter, or of the rules implementing this chapter, and any person who knowingly aids or abets another in conducting any violation of any provisions of this chapter, or of the rules implementing this chapter, shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than ten thousand dollars, and/or by imprisonment in the county jail for up to three hundred sixty-four days, for each separate violation. Each and every such violation shall be a separate and distinct offense. In case of continuing violation, every day's continuance shall be a separate and distinct offense.

Sec. 1283. RCW 70.105.105 and 1985 c 65 s 1 are each amended to read as follows:

The department of ecology shall regulate under this chapter (~~(70.105 RCW)~~), wastes generated from the salvaging, rebuilding, or discarding of transformers or capacitors that have been sold or otherwise transferred for salvage or disposal after the completion or termination of their useful lives and which contain polychlorinated biphenyls (PCB's) and whose disposal is not regulated under 40 C.F.R. part 761. Nothing in this section shall prohibit such wastes from being incinerated or disposed of at facilities permitted to manage PCB wastes under 40 C.F.R. part 761.

Sec. 1284. RCW 70.105.110 and 1987 c 488 s 3 are each amended to read as follows:

(1) Nothing in this chapter shall alter, amend, or supersede the provisions of chapter 80.50 RCW, except that, notwithstanding any provision of chapter 80.50 RCW, regulation of dangerous wastes associated with energy facilities from generation to disposal shall be solely by the department pursuant to this chapter (~~(70.105 RCW)~~). In the implementation of said section, the department shall consult and cooperate with the energy facility site evaluation council and, in order to reduce duplication of effort and to provide necessary coordination of monitoring and on-site inspection programs at energy facility sites, any on-site inspection by the department that may be required for the purposes of this chapter shall be performed pursuant to an interagency coordination agreement with the council.

(2) To facilitate the implementation of this chapter, the energy facility site evaluation council may require certificate holders to remove from their energy facility sites any dangerous wastes, controlled by this chapter, within ninety days of their generation.

Sec. 1285. RCW 70.105.111 and 1987 c 488 s 5 are each amended to read as follows:

Nothing in this chapter diminishes the authority of the department of social and health services to regulate the radioactive portion of mixed wastes pursuant to chapter 70.98 RCW (as recodified by this act).

Sec. 1286. RCW 70.105.112 and 1987 c 528 s 9 are each amended to read as follows:

This chapter does not apply to special incinerator ash regulated under chapter 70.138 RCW (as recodified by this act) except that, for purposes of

RCW 4.22.070(3)(a), special incinerator ash shall be considered hazardous waste.

Sec. 1287. RCW 70.105.116 and 1994 c 257 s 17 are each amended to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW (as recodified by this act), or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW (as recodified by this act). The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW (as recodified by this act), or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090 (as recodified by this act).

Sec. 1288. RCW 70.105.135 and 1986 c 82 s 1 are each amended to read as follows:

Any person who generates, treats, stores, disposes, or otherwise handles dangerous or extremely hazardous wastes shall provide copies of any notification forms, or annual reports that are required pursuant to RCW 70.105.130 (as recodified by this act) to the fire departments or fire districts that service the areas in which the wastes are handled upon the request of the fire departments or fire districts. In areas that are not serviced by a fire department or fire district, the forms or reports shall be provided to the sheriff or other county official designated pursuant to RCW (~~48.48.060~~) 43.44.050 upon the request of the sheriff or other county official. This section shall not apply to the transportation of hazardous wastes.

Sec. 1289. RCW 70.105.140 and 1980 c 144 s 3 are each amended to read as follows:

Rules implementing RCW 70.105.130 (as recodified by this act) shall be submitted to the house and senate committees on ecology for review prior to being adopted in accordance with chapter 34.05 RCW.

Sec. 1290. RCW 70.105.145 and 1984 c 237 s 2 are each amended to read as follows:

Notwithstanding any other provision of this chapter (~~(70.105 RCW)~~), the department of ecology is empowered to participate fully in and is empowered to administer all aspects of the programs of the federal Resource Conservation and Recovery Act, as it exists on June 7, 1984, (42 U.S.C. Sec. 6901 et seq.), contemplated for participation and administration by a state under that act.

Sec. 1291. RCW 70.105.160 and 2010 1st sp.s. c 7 s 89 are each amended to read as follows:

The department shall conduct a study to determine the best management practices for categories of waste for the priority waste management methods established in RCW 70.105.150 (as recodified by this act), with due consideration in the course of the study to sound environmental management and available technology. As an element of the study, the department shall review methods that will help achieve the priority of RCW 70.105.150(1)(a) (as recodified by this act), waste reduction. Before issuing any proposed rules, the department shall conduct public hearings regarding the best management

practices for the various waste categories studied by the department. After conducting the study, the department shall prepare new rules or modify existing rules as appropriate to promote implementation of the priorities established in RCW 70.105.150 (as recodified by this act) for management practices which assure use of sound environmental management techniques and available technology. The preliminary study shall be completed by July 1, 1986, and the rules shall be adopted by July 1, 1987.

The studies shall be updated at least once every five years. The funding for these studies shall be from the ~~((hazardous waste control and elimination account))~~ model toxics control operating account created in RCW 70.105D.190 (as recodified by this act), subject to legislative appropriation.

Sec. 1292. RCW 70.105.165 and 1984 c 254 s 1 are each amended to read as follows:

(1) Independent of the processing or issuance of any or all federal, state, and local permits for disposal of dangerous wastes, no disposal of dangerous wastes at a commercial off-site land disposal facility may be undertaken prior to July 1, 1986, unless:

(a) The disposal results from actions taken under RCW 70.105A.060 (2) and (3), or results from other emergency situations; or

(b) Studies undertaken by the department under RCW 70.105.160 (as recodified by this act) to determine the best management practices for various waste categories under the priority waste management methods established in RCW 70.105.150 (as recodified by this act) are completed for the particular wastes or waste categories to be disposed of and any regulatory revisions deemed necessary by the department are proposed and do not prohibit land disposal of such wastes; or

(c) Final regulations have been adopted by the department that allow for such disposal.

(2) Construction of facilities used solely for the purpose of disposal of wastes that have not met the requirements of subsection (1) of this section shall not be undertaken by any developer of a dangerous waste disposal facility.

(3) The department shall prioritize the studies of waste categories undertaken under RCW 70.105.160 (as recodified by this act) to provide initial consideration of those categories most likely to be suitable for land disposal. Any regulatory changes deemed necessary by the department shall be proposed and subjected to the rule-making process by category as the study of each waste category is completed. All of the study shall be completed, and implementing regulations proposed, by July 1, 1986.

(4) Any final permit issued by the department before the adoption of rules promulgated as a result of the study conducted under RCW 70.105.160 (as recodified by this act) shall be modified as necessary to be consistent with such rules.

Sec. 1293. RCW 70.105.170 and 1983 1st ex.s. c 70 s 3 are each amended to read as follows:

Consistent with the purposes of RCW 70.105.150 and 70.105.160 (as recodified by this act), the department is authorized to promote the priority waste management methods listed in RCW 70.105.150 (as recodified by this act) by establishing or assisting in the establishment of: (1) Consultative services which,

in conjunction with any business or industry requesting such service, study and recommend alternative waste management practices; and (2) technical assistance, such as a toll-free telephone service, to persons interested in waste management alternatives. Any person receiving such service or assistance may, in accordance with state law, request confidential treatment of information about their manufacturing or business practices.

Sec. 1294. RCW 70.105.180 and 1985 c 57 s 70 are each amended to read as follows:

All fines and penalties collected under this chapter shall be deposited in the ~~((hazardous waste control and elimination))~~ model toxics control operating account~~((, which is hereby created in the state treasury. Moneys in the account collected from fines and penalties shall be expended exclusively by the department of ecology for the purposes of chapter 70, Laws of 1983 1st ex. sess., subject to legislative appropriation. Other sources of funds deposited in this account may also be used for the purposes of chapter 70, Laws of 1983 1st ex. sess. All earnings of investments of balances in the hazardous waste control and elimination account shall be credited to the general fund))~~ created in RCW 70.105D.190 (as recodified by this act).

Sec. 1295. RCW 70.105.200 and 1985 c 448 s 4 are each amended to read as follows:

(1) The department shall develop, and shall update at least once every five years, a state hazardous waste management plan. The plan shall include, but shall not be limited to, the following elements:

(a) A state inventory and assessment of the capacity of existing facilities to treat, store, dispose, or otherwise manage hazardous waste;

(b) A forecast of future hazardous waste generation;

(c) A description of the plan or program required by RCW 70.105.160 (as recodified by this act) to promote the waste management priorities established in RCW 70.105.150 (as recodified by this act);

(d) Siting criteria as appropriate for hazardous waste management facilities, including such criteria as may be appropriate for the designation of eligible zones for designated zone facilities. However, these criteria shall not prevent the continued operation, at or below the present level of waste management activity, of existing facilities on the basis of their location in areas other than those designated as eligible zones pursuant to RCW 70.105.225 (as recodified by this act);

(e) Siting policies as deemed appropriate by the department; and

(f) A plan or program to provide appropriate public information and education relating to hazardous waste management. The department shall ensure to the maximum degree practical that these plans or programs are coordinated with public education programs carried out by local government under RCW 70.105.220 (as recodified by this act).

(2) The department shall seek, encourage, and assist participation in the development, revision, and implementation of the state hazardous waste management plan by interested citizens, local government, business and industry, environmental groups, and other entities as appropriate.

(3) Siting criteria shall be completed by December 31, 1986. Other plan components listed in subsection (1) of this section shall be completed by June 30, 1987.

(4) The department shall incorporate into the state hazardous waste management plan those elements of the local hazardous waste management plans that it deems necessary to assure effective and coordinated programs throughout the state.

Sec. 1296. RCW 70.105.210 and 1989 1st ex.s. c 13 s 2 are each amended to read as follows:

By May 31, 1990, the department shall develop and adopt criteria for the siting of hazardous waste management facilities. These criteria will be part of the state hazardous waste management plan as described in RCW 70.105.200 (as recodified by this act). To the extent practical, these criteria shall be designed to minimize the short-term and long-term risks and costs that may result from hazardous waste management facilities. These criteria may vary by type of facilities and may consider natural site characteristics and engineered protection. Criteria may be established for:

- (1) Geology;
- (2) Surface and groundwater hydrology;
- (3) Soils;
- (4) Flooding;
- (5) Climatic factors;
- (6) Unique or endangered flora and fauna;
- (7) Transportation routes;
- (8) Site access;
- (9) Buffer zones;
- (10) Availability of utilities and public services;
- (11) Compatibility with existing uses of land;
- (12) Shorelines and wetlands;
- (13) Sole-source aquifers;
- (14) Natural hazards; and
- (15) Other factors as determined by the department.

Sec. 1297. RCW 70.105.220 and 1992 c 17 s 1 are each amended to read as follows:

(1) Each local government, or combination of contiguous local governments, is directed to prepare a local hazardous waste plan which shall be based on state guidelines and include the following elements:

(a) A plan or program to manage moderate-risk wastes that are generated or otherwise present within the jurisdiction. This element shall include an assessment of the quantities, types, generators, and fate of moderate-risk wastes in the jurisdiction. The purpose of this element is to develop a system of managing moderate-risk waste, appropriate to each local area, to ensure protection of the environment and public health;

(b) A plan or program to provide for ongoing public involvement and public education in regard to the management of moderate-risk waste. This element shall provide information regarding:

(i) The potential hazards to human health and the environment resulting from improper use and disposal of the waste; and

(ii) Proper methods of handling, reducing, recycling, and disposing of the waste;

(c) An inventory of all existing generators of hazardous waste and facilities managing hazardous waste within the jurisdiction. This inventory shall be based on data provided by the department;

(d) A description of the public involvement process used in developing the plan;

(e) A description of the eligible zones designated in accordance with RCW 70.105.225 (as recodified by this act). However, the requirement to designate eligible zones shall not be considered part of the local hazardous waste planning requirements; and

(f) Other elements as deemed appropriate by local government.

(2) To the maximum extent practicable, the local hazardous waste plan shall be coordinated with other hazardous materials-related plans and policies in the jurisdiction.

(3) Local governments shall coordinate with those persons involved in providing privately owned hazardous and moderate-risk waste facilities and services as follows: If a local government determines that a moderate-risk waste will be or is adequately managed by one or more privately owned facilities or services at a reasonable price, the local government shall take actions to encourage the use of that private facility or service. Actions taken by a local government under this subsection may include, but are not limited to, restricting or prohibiting the land disposal of a moderate-risk waste at any transfer station or land disposal facility within its jurisdiction.

(4)(a) The department shall prepare guidelines for the development of local hazardous waste plans. The guidelines shall be prepared in consultation with local governments and shall be completed by December 31, 1986. The guidelines shall include a list of substances identified as hazardous household substances.

(b) In preparing the guidelines under (a) of this subsection, the department shall review and assess information on pilot projects that have been conducted for moderate-risk waste management. The department shall encourage additional pilot projects as needed to provide information to improve and update the guidelines.

(5) The department shall consult with retailers, trade associations, public interest groups, and appropriate units of local government to encourage the development of voluntary public education programs on the proper handling of hazardous household substances.

(6) Local hazardous waste plans shall be completed and submitted to the department no later than June 30, 1990. Local governments may from time to time amend the local plan.

(7) Each local government, or combination of contiguous local governments, shall submit its local hazardous waste plan or amendments thereto to the department. The department shall approve or disapprove local hazardous waste plans or amendments by December 31, 1990, or within ninety days of submission, whichever is later. The department shall approve a local hazardous waste plan if it determines that the plan is consistent with this chapter and the guidelines under subsection (4) of this section. If approval is denied, the department shall submit its objections to the local government within ninety

days of submission. However, for plans submitted between January 1, 1990, and June 30, 1990, the department shall have one hundred eighty days to submit its objections. No local government is eligible for grants under RCW 70.105.235 (as recodified by this act) for implementing a local hazardous waste plan unless the plan for that jurisdiction has been approved by the department.

(8) Each local government, or combination of contiguous local governments, shall implement the local hazardous waste plan for its jurisdiction by December 31, 1991.

(9) The department may waive the specific requirements of this section for any local government if such local government demonstrates to the satisfaction of the department that the objectives of the planning requirements have been met.

Sec. 1298. RCW 70.105.221 and 1991 c 319 s 312 are each amended to read as follows:

Local governments and combinations of local governments shall amend their local hazardous waste plans required under RCW 70.105.220 (as recodified by this act) to comply with RCW 70.95I.020 (as recodified by this act).

Sec. 1299. RCW 70.105.225 and 1989 1st ex.s. c 13 s 1 are each amended to read as follows:

(1) Each local government, or combination of contiguous local governments, is directed to: (a) Demonstrate to the satisfaction of the department that existing zoning allows designated zone facilities as permitted uses; or (b) designate land use zones within its jurisdiction in which designated zone facilities are permitted uses. The zone designations shall be consistent with the state siting criteria adopted in accordance with RCW 70.105.210 (as recodified by this act), except as may be approved by the department in accordance with subsection (6) of this section.

(2) Local governments shall not prohibit the processing or handling of hazardous waste in zones in which the processing or handling of hazardous substances is not prohibited. This subsection does not apply in residential zones.

(3) The department shall prepare guidelines, as appropriate, for the designation of zones under this section. The guidelines shall be prepared in consultation with local governments and shall be completed by December 31, 1986.

(4) The initial designation of zones shall be completed or revised, and submitted to the department within eighteen months after the enactment of siting criteria in accordance with RCW 70.105.210 (as recodified by this act). Local governments that do not comply with this submittal deadline shall be subject to the preemptive provisions of RCW 70.105.240(4) (as recodified by this act) until such time as zone designations are completed and approved by the department. Local governments may from time to time amend their designated zones.

(5) Local governments without land use zoning provisions shall designate eligible geographic areas within their jurisdiction, based on siting criteria adopted in accordance with RCW 70.105.210 (as recodified by this act). The area designation shall be subject to the same requirements as if they were zone designations.

(6) Each local government, or combination of contiguous local governments, shall submit its designation of zones or amendments thereto to the

department. The department shall approve or disapprove zone designations or amendments within ninety days of submission. The department shall approve eligible zone designations if it determines that the proposed zone designations are consistent with this chapter, the applicable siting criteria, and guidelines for developing designated zones: PROVIDED, That the department shall consider local zoning in place as of January 1, 1985, or other special situations or conditions which may exist in the jurisdiction. If approval is denied, the department shall state within ninety days from the date of submission the facts upon which that decision is based and shall submit the statement to the local government together with any other comments or recommendations it deems appropriate. The local government shall have ninety days after it receives the statement from the department to make modifications designed to eliminate the inconsistencies and resubmit the designation to the department for approval. Any designations shall take effect when approved by the department.

(7) The department may exempt a local government from the requirements of this section if:

(a) Regulated quantities of hazardous waste have not been generated within the jurisdiction during the two calendar years immediately preceding the calendar year during which the exemption is requested; and

(b) The local government can demonstrate to the satisfaction of the department that no significant portion of land within the jurisdiction can meet the siting criteria adopted in accordance with RCW 70.105.210 (as recodified by this act).

Sec. 1300. RCW 70.105.235 and 1986 c 210 s 2 are each amended to read as follows:

(1) Subject to legislative appropriations, the department may make and administer grants to local governments for (a) preparing and updating local hazardous waste plans, (b) implementing approved local hazardous waste plans, and (c) designating eligible zones for designated zone facilities as required under this chapter.

(2) Local governments shall match the funds provided by the department for planning or designating zones with an amount not less than twenty-five percent of the estimated cost of the work to be performed. Local governments may meet their share of costs with cash or contributed services. Local governments, or combination of contiguous local governments, conducting pilot projects pursuant to RCW 70.105.220(4) (as recodified by this act) may subtract the cost of those pilot projects conducted for hazardous household substances from their share of the cost. If a pilot project has been conducted for all moderate-risk wastes, only the portion of the cost that applies to hazardous household substances shall be subtracted. The matching funds requirement under this subsection shall be waived for local governments, or combination of contiguous local governments, that complete and submit their local hazardous waste plans under RCW 70.105.220(6) (as recodified by this act) prior to June 30, 1988.

(3) Recipients of grants shall meet such qualifications and follow such procedures in applying for and using grants as may be established by the department.

Sec. 1301. RCW 70.105.240 and 1985 c 448 s 10 are each amended to read as follows:

(1) As of July 28, 1985, the state preempts the field of state, regional, or local permitting and regulating of all preempted facilities as defined in this chapter. The department of ecology is designated the sole decision-making authority with respect to permitting and regulating such facilities and no other state agency, department, division, bureau, commission, or board, or any local or regional political subdivision of the state, shall have any permitting or regulatory authority with respect to such facilities including, but not limited to, the location, construction, and operation of such facilities. Permits issued by the department shall be in lieu of any and all permits, approvals, certifications, or conditions of any other state, regional, or local governmental authority which would otherwise apply.

(2) The department shall ensure that any permits issued under this chapter invoking the preemption authority of this section meet the substantive requirements of existing state laws and regulations to the extent such laws and regulations are not inconsistent or in conflict with any of the provisions of this chapter. In the event that any of the provisions of this chapter, or any of the regulations promulgated hereunder, are in conflict with any other state law or regulations, such other law or regulations shall be deemed superseded for purposes of this chapter.

(3) As of July 28, 1985, any ordinances, regulations, requirements, or restrictions of regional or local governmental authorities regarding the location, construction, or operation of preempted facilities shall be deemed superseded. However, in issuing permits under this section, the department shall consider local fire and building codes and condition such permits as appropriate in compliance therewith.

(4) Effective July 1, 1988, the department shall have the same preemptive authority as defined in subsections (1) through (3) of this section in regard to any designated zone facility that may be proposed in any jurisdiction where the designation of eligible zones pursuant to RCW 70.105.225 (as recodified by this act) has not been completed and approved by the department. Unless otherwise preempted by this subsection, designated zone facilities shall be subject to all applicable state and local laws, regulations, plans, and other requirements.

Sec. 1302. RCW 70.105.250 and 1985 c 448 s 12 are each amended to read as follows:

Any disputes between the department and the governing bodies of local governments in regard to the local planning requirements under RCW 70.105.220 (as recodified by this act) and the designation of zones under RCW 70.105.225 (as recodified by this act) may be appealed by the department or the governing body of the local government to the pollution control hearings board established under chapter 43.21B RCW.

Sec. 1303. RCW 70.105.270 and 1985 c 448 s 15 are each amended to read as follows:

The requirements of RCW 70.105.200 through 70.105.230 and 70.105.240(4) (as recodified by this act) shall not become mandatory until funding is appropriated by the legislature.

Sec. 1304. RCW 70.105.280 and 2013 2nd sp.s. c 1 s 14 are each amended to read as follows:

(1) The department may assess reasonable service charges against those facilities that store, treat, incinerate, or dispose of dangerous or extremely hazardous waste that contains both a nonradioactive hazardous component and a radioactive component or which are undergoing closure under this chapter in those instances where closure entails the physical characterization of remaining wastes which contain both a nonradioactive hazardous component and a radioactive component or the management of such wastes through treatment or removal, except any commercial low-level radioactive waste facility. Service charges may not exceed the costs to the department in carrying out the duties of this section.

(2) Program elements or activities for which service charges may be assessed include:

(a) Office, staff, and staff support for the purposes of facility or unit permit development, review, and issuance; and

(b) Actions taken to determine and ensure compliance with the state's hazardous waste management act.

(3) Moneys collected through the imposition of such service charges shall be deposited in the radioactive mixed waste account created in RCW 70.105.310 (as recodified by this act).

(4) The department shall adopt rules necessary to implement this section. Facilities that store, treat, incinerate, or dispose of dangerous or extremely hazardous waste that contains both a nonradioactive hazardous component and a radioactive component shall not be subject to service charges prior to such rule making. Facilities undergoing closure under this chapter in those instances where closure entails the physical characterization of remaining wastes which contain both a nonradioactive hazardous component and a radioactive component or the management of such wastes through treatment or removal shall not be subject to service charges prior to such rule making.

Sec. 1305. RCW 70.105.310 and 2013 2nd sp.s. c 1 s 12 are each amended to read as follows:

The radioactive mixed waste account is created within the state treasury. All receipts received from facilities assessed service charges established under RCW 70.105.280 (as recodified by this act) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used for carrying out the department's powers and duties under this chapter related to the regulation of facilities that treat, store, or dispose of mixed waste or mixed waste facilities that are undergoing closure.

Sec. 1306. RCW 70.105D.020 and 2013 2nd sp.s. c 1 s 2 are each reenacted and amended to read as follows:

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

(1) "Agreed order" means an order issued by the department under this chapter with which the potentially liable person or prospective purchaser receiving the order agrees to comply. An agreed order may be used to require or approve any cleanup or other remedial actions but it is not a settlement under RCW 70.105D.040(4) (as recodified by this act) and shall not contain a covenant not to sue, or provide protection from claims for contribution, or provide

eligibility for public funding of remedial actions under RCW ((70.105D.070(3) ~~(k) and (q))~~) 70.105D.200(4)(a) (v) and (vi) (as recodified by this act).

(2) "Area-wide groundwater contamination" means groundwater contamination on multiple adjacent properties with different ownerships consisting of hazardous substances from multiple sources that have resulted in commingled plumes of contaminated groundwater that are not practicable to address separately.

(3) "Brownfield property" means previously developed and currently abandoned or underutilized real property and adjacent surface waters and sediment where environmental, economic, or community reuse objectives are hindered by the release or threatened release of hazardous substances that the department has determined requires remedial action under this chapter or that the United States environmental protection agency has determined requires remedial action under the federal cleanup law.

(4) "City" means a city or town.

(5) "Department" means the department of ecology.

(6) "Director" means the director of ecology or the director's designee.

(7) "Environmental covenant" has the same meaning as defined in RCW 64.70.020.

(8) "Facility" means (a) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft, or (b) any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

(9) "Federal cleanup law" means the federal comprehensive environmental response, compensation, and liability act of 1980, 42 U.S.C. Sec. 9601 et seq., as amended by Public Law 99-499.

(10)(a) "Fiduciary" means a person acting for the benefit of another party as a bona fide trustee; executor; administrator; custodian; guardian of estates or guardian ad litem; receiver; conservator; committee of estates of incapacitated persons; trustee in bankruptcy; trustee, under an indenture agreement, trust agreement, lease, or similar financing agreement, for debt securities, certificates of interest or certificates of participation in debt securities, or other forms of indebtedness as to which the trustee is not, in the capacity of trustee, the lender. Except as provided in subsection (22)(b)(iii) of this section, the liability of a fiduciary under this chapter shall not exceed the assets held in the fiduciary capacity.

(b) "Fiduciary" does not mean:

(i) A person acting as a fiduciary with respect to a trust or other fiduciary estate that was organized for the primary purpose of, or is engaged in, actively carrying on a trade or business for profit, unless the trust or other fiduciary estate was created as part of, or to facilitate, one or more estate plans or because of the incapacity of a natural person;

(ii) A person who acquires ownership or control of a facility with the objective purpose of avoiding liability of the person or any other person. It is prima facie evidence that the fiduciary acquired ownership or control of the facility to avoid liability if the facility is the only substantial asset in the fiduciary estate at the time the facility became subject to the fiduciary estate;

(iii) A person who acts in a capacity other than that of a fiduciary or in a beneficiary capacity and in that capacity directly or indirectly benefits from a trust or fiduciary relationship;

(iv) A person who is a beneficiary and fiduciary with respect to the same fiduciary estate, and who while acting as a fiduciary receives benefits that exceed customary or reasonable compensation, and incidental benefits permitted under applicable law;

(v) A person who is a fiduciary and receives benefits that substantially exceed customary or reasonable compensation, and incidental benefits permitted under applicable law; or

(vi) A person who acts in the capacity of trustee of state or federal lands or resources.

(11) "Fiduciary capacity" means the capacity of a person holding title to a facility, or otherwise having control of an interest in the facility pursuant to the exercise of the responsibilities of the person as a fiduciary.

(12) "Foreclosure and its equivalents" means purchase at a foreclosure sale, acquisition, or assignment of title in lieu of foreclosure, termination of a lease, or other repossession, acquisition of a right to title or possession, an agreement in satisfaction of the obligation, or any other comparable formal or informal manner, whether pursuant to law or under warranties, covenants, conditions, representations, or promises from the borrower, by which the holder acquires title to or possession of a facility securing a loan or other obligation.

(13) "Hazardous substance" means:

(a) Any dangerous or extremely hazardous waste as defined in RCW 70.105.010 (1) and (7) (as recodified by this act), or any dangerous or extremely hazardous waste designated by rule pursuant to chapter 70.105 RCW (as recodified by this act);

(b) Any hazardous substance as defined in RCW 70.105.010(10) (as recodified by this act) or any hazardous substance as defined by rule pursuant to chapter 70.105 RCW (as recodified by this act);

(c) Any substance that, on March 1, 1989, is a hazardous substance under section 101(14) of the federal cleanup law, 42 U.S.C. Sec. 9601(14);

(d) Petroleum or petroleum products; and

(e) Any substance or category of substances, including solid waste decomposition products, determined by the director by rule to present a threat to human health or the environment if released into the environment.

The term hazardous substance does not include any of the following when contained in an underground storage tank from which there is not a release: Crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local law.

(14) "Holder" means a person who holds indicia of ownership primarily to protect a security interest. A holder includes the initial holder such as the loan originator, any subsequent holder such as a successor-in-interest or subsequent purchaser of the security interest on the secondary market, a guarantor of an obligation, surety, or any other person who holds indicia of ownership primarily to protect a security interest, or a receiver, court-appointed trustee, or other person who acts on behalf or for the benefit of a holder. A holder can be a public or privately owned financial institution, receiver, conservator, loan guarantor, or other similar persons that loan money or guarantee repayment of a loan. Holders

typically are banks or savings and loan institutions but may also include others such as insurance companies, pension funds, or private individuals that engage in loaning of money or credit.

(15) "Independent remedial actions" means remedial actions conducted without department oversight or approval, and not under an order, agreed order, or consent decree.

(16) "Indicia of ownership" means evidence of a security interest, evidence of an interest in a security interest, or evidence of an interest in a facility securing a loan or other obligation, including any legal or equitable title to a facility acquired incident to foreclosure and its equivalents. Evidence of such interests includes, mortgages, deeds of trust, sellers interest in a real estate contract, liens, surety bonds, and guarantees of obligations, title held pursuant to a lease financing transaction in which the lessor does not select initially the leased facility, or legal or equitable title obtained pursuant to foreclosure and their equivalents. Evidence of such interests also includes assignments, pledges, or other rights to or other forms of encumbrance against the facility that are held primarily to protect a security interest.

(17) "Industrial properties" means properties that are or have been characterized by, or are to be committed to, traditional industrial uses such as processing or manufacturing of materials, marine terminal and transportation areas and facilities, fabrication, assembly, treatment, or distribution of manufactured products, or storage of bulk materials, that are either:

(a) Zoned for industrial use by a city or county conducting land use planning under chapter 36.70A RCW; or

(b) For counties not planning under chapter 36.70A RCW and the cities within them, zoned for industrial use and adjacent to properties currently used or designated for industrial purposes.

(18) "Institutional controls" means measures undertaken to limit or prohibit activities that may interfere with the integrity of a remedial action or result in exposure to or migration of hazardous substances at a site. "Institutional controls" include environmental covenants.

(19) "Local government" means any political subdivision of the state, including a town, city, county, special purpose district, or other municipal corporation, including brownfield renewal authority created under RCW 70.105D.160 (as recodified by this act).

(20) "Model remedy" or "model remedial action" means a set of technologies, procedures, and monitoring protocols identified by the department for use in routine types of clean-up projects at facilities that have common features and lower risk to human health and the environment.

(21) "Operating a facility primarily to protect a security interest" occurs when all of the following are met: (a) Operating the facility where the borrower has defaulted on the loan or otherwise breached the security agreement; (b) operating the facility to preserve the value of the facility as an ongoing business; (c) the operation is being done in anticipation of a sale, transfer, or assignment of the facility; and (d) the operation is being done primarily to protect a security interest. Operating a facility for longer than one year prior to foreclosure or its equivalents shall be presumed to be operating the facility for other than to protect a security interest.

(22) "Owner or operator" means:

(a) Any person with any ownership interest in the facility or who exercises any control over the facility; or

(b) In the case of an abandoned facility, any person who had owned, or operated, or exercised control over the facility any time before its abandonment;

The term does not include:

(i) An agency of the state or unit of local government which acquired ownership or control through a drug forfeiture action under RCW 69.50.505, or involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title. This exclusion does not apply to an agency of the state or unit of local government which has caused or contributed to the release or threatened release of a hazardous substance from the facility;

(ii) A person who, without participating in the management of a facility, holds indicia of ownership primarily to protect the person's security interest in the facility. Holders after foreclosure and its equivalent and holders who engage in any of the activities identified in subsection (23)(e) through (g) of this section shall not lose this exemption provided the holder complies with all of the following:

(A) The holder properly maintains the environmental compliance measures already in place at the facility;

(B) The holder complies with the reporting requirements in the rules adopted under this chapter;

(C) The holder complies with any order issued to the holder by the department to abate an imminent or substantial endangerment;

(D) The holder allows the department or potentially liable persons under an order, agreed order, or settlement agreement under this chapter access to the facility to conduct remedial actions and does not impede the conduct of such remedial actions;

(E) Any remedial actions conducted by the holder are in compliance with any preexisting requirements identified by the department, or, if the department has not identified such requirements for the facility, the remedial actions are conducted consistent with the rules adopted under this chapter; and

(F) The holder does not exacerbate an existing release. The exemption in this subsection (22)(b)(ii) does not apply to holders who cause or contribute to a new release or threatened release or who are otherwise liable under RCW 70.105D.040(1) (b), (c), (d), and (e) (as recodified by this act); provided, however, that a holder shall not lose this exemption if it establishes that any such new release has been remediated according to the requirements of this chapter and that any hazardous substances remaining at the facility after remediation of the new release are divisible from such new release;

(iii) A fiduciary in his, her, or its personal or individual capacity. This exemption does not preclude a claim against the assets of the estate or trust administered by the fiduciary or against a nonemployee agent or independent contractor retained by a fiduciary. This exemption also does not apply to the extent that a person is liable under this chapter independently of the person's ownership as a fiduciary or for actions taken in a fiduciary capacity which cause or contribute to a new release or exacerbate an existing release of hazardous substances. This exemption applies provided that, to the extent of the fiduciary's

powers granted by law or by the applicable governing instrument granting fiduciary powers, the fiduciary complies with all of the following:

(A) The fiduciary properly maintains the environmental compliance measures already in place at the facility;

(B) The fiduciary complies with the reporting requirements in the rules adopted under this chapter;

(C) The fiduciary complies with any order issued to the fiduciary by the department to abate an imminent or substantial endangerment;

(D) The fiduciary allows the department or potentially liable persons under an order, agreed order, or settlement agreement under this chapter access to the facility to conduct remedial actions and does not impede the conduct of such remedial actions;

(E) Any remedial actions conducted by the fiduciary are in compliance with any preexisting requirements identified by the department, or, if the department has not identified such requirements for the facility, the remedial actions are conducted consistent with the rules adopted under this chapter; and

(F) The fiduciary does not exacerbate an existing release.

The exemption in this subsection (22)(b)(iii) does not apply to fiduciaries who cause or contribute to a new release or threatened release or who are otherwise liable under RCW 70.105D.040(1) (b), (c), (d), and (e) (as recodified by this act); provided however, that a fiduciary shall not lose this exemption if it establishes that any such new release has been remediated according to the requirements of this chapter and that any hazardous substances remaining at the facility after remediation of the new release are divisible from such new release. The exemption in this subsection (22)(b)(iii) also does not apply where the fiduciary's powers to comply with this subsection (22)(b)(iii) are limited by a governing instrument created with the objective purpose of avoiding liability under this chapter or of avoiding compliance with this chapter; or

(iv) Any person who has any ownership interest in, operates, or exercises control over real property where a hazardous substance has come to be located solely as a result of migration of the hazardous substance to the real property through the groundwater from a source off the property, if:

(A) The person can demonstrate that the hazardous substance has not been used, placed, managed, or otherwise handled on the property in a manner likely to cause or contribute to a release of the hazardous substance that has migrated onto the property;

(B) The person has not caused or contributed to the release of the hazardous substance;

(C) The person does not engage in activities that damage or interfere with the operation of remedial actions installed on the person's property or engage in activities that result in exposure of humans or the environment to the contaminated groundwater that has migrated onto the property;

(D) If requested, the person allows the department, potentially liable persons who are subject to an order, agreed order, or consent decree, and the authorized employees, agents, or contractors of each, access to the property to conduct remedial actions required by the department. The person may attempt to negotiate an access agreement before allowing access; and

(E) Legal withdrawal of groundwater does not disqualify a person from the exemption in this subsection (22)(b)(iv).

(23) "Participation in management" means exercising decision-making control over the borrower's operation of the facility, environmental compliance, or assuming or manifesting responsibility for the overall management of the enterprise encompassing the day-to-day decision making of the enterprise.

The term does not include any of the following: (a) A holder with the mere capacity or ability to influence, or the unexercised right to control facility operations; (b) a holder who conducts or requires a borrower to conduct an environmental audit or an environmental site assessment at the facility for which indicia of ownership is held; (c) a holder who requires a borrower to come into compliance with any applicable laws or regulations at the facility for which indicia of ownership is held; (d) a holder who requires a borrower to conduct remedial actions including setting minimum requirements, but does not otherwise control or manage the borrower's remedial actions or the scope of the borrower's remedial actions except to prepare a facility for sale, transfer, or assignment; (e) a holder who engages in workout or policing activities primarily to protect the holder's security interest in the facility; (f) a holder who prepares a facility for sale, transfer, or assignment or requires a borrower to prepare a facility for sale, transfer, or assignment; (g) a holder who operates a facility primarily to protect a security interest, or requires a borrower to continue to operate, a facility primarily to protect a security interest; and (h) a prospective holder who, as a condition of becoming a holder, requires an owner or operator to conduct an environmental audit, conduct an environmental site assessment, come into compliance with any applicable laws or regulations, or conduct remedial actions prior to holding a security interest is not participating in the management of the facility.

(24) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, unit of local government, federal government agency, or Indian tribe.

(25) "Policing activities" means actions the holder takes to ensure that the borrower complies with the terms of the loan or security interest or actions the holder takes or requires the borrower to take to maintain the value of the security. Policing activities include: Requiring the borrower to conduct remedial actions at the facility during the term of the security interest; requiring the borrower to comply or come into compliance with applicable federal, state, and local environmental and other laws, regulations, and permits during the term of the security interest; securing or exercising authority to monitor or inspect the facility including on-site inspections, or to monitor or inspect the borrower's business or financial condition during the term of the security interest; or taking other actions necessary to adequately police the loan or security interest such as requiring a borrower to comply with any warranties, covenants, conditions, representations, or promises from the borrower.

(26) "Potentially liable person" means any person whom the department finds, based on credible evidence, to be liable under RCW 70.105D.040 (as recodified by this act). The department shall give notice to any such person and allow an opportunity for comment before making the finding, unless an emergency requires otherwise.

(27) "Prepare a facility for sale, transfer, or assignment" means to secure access to the facility; perform routine maintenance on the facility; remove inventory, equipment, or structures; properly maintain environmental

compliance measures already in place at the facility; conduct remedial actions to cleanup releases at the facility; or to perform other similar activities intended to preserve the value of the facility where the borrower has defaulted on the loan or otherwise breached the security agreement or after foreclosure and its equivalents and in anticipation of a pending sale, transfer, or assignment, primarily to protect the holder's security interest in the facility. A holder can prepare a facility for sale, transfer, or assignment for up to one year prior to foreclosure and its equivalents and still stay within the security interest exemption in subsection (22)(b)(ii) of this section.

(28) "Primarily to protect a security interest" means the indicia of ownership is held primarily for the purpose of securing payment or performance of an obligation. The term does not include indicia of ownership held primarily for investment purposes nor indicia of ownership held primarily for purposes other than as protection for a security interest. A holder may have other, secondary reasons, for maintaining indicia of ownership, but the primary reason must be for protection of a security interest. Holding indicia of ownership after foreclosure or its equivalents for longer than five years shall be considered to be holding the indicia of ownership for purposes other than primarily to protect a security interest. For facilities that have been acquired through foreclosure or its equivalents prior to July 23, 1995, this five-year period shall begin as of July 23, 1995.

(29) "Prospective purchaser" means a person who is not currently liable for remedial action at a facility and who proposes to purchase, redevelop, or reuse the facility.

(30) "Public notice" means, at a minimum, adequate notice mailed to all persons who have made timely request of the department and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the newspaper of largest circulation in the city or county of the proposed action; and opportunity for interested persons to comment.

(31) "Redevelopment opportunity zone" means a geographic area designated under RCW 70.105D.150 (as recodified by this act).

(32) "Release" means any intentional or unintentional entry of any hazardous substance into the environment, including but not limited to the abandonment or disposal of containers of hazardous substances.

(33) "Remedy" or "remedial action" means any action or expenditure consistent with the purposes of this chapter to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

(34) "Security interest" means an interest in a facility created or established for the purpose of securing a loan or other obligation. Security interests include deeds of trusts, sellers interest in a real estate contract, liens, legal, or equitable title to a facility acquired incident to foreclosure and its equivalents, and title pursuant to lease financing transactions. Security interests may also arise from transactions such as sale and leasebacks, conditional sales, installment sales, trust receipt transactions, certain assignments, factoring agreements, accounts

receivable financing arrangements, easements, and consignments, if the transaction creates or establishes an interest in a facility for the purpose of securing a loan or other obligation.

(35) "Workout activities" means those actions by which a holder, at any time prior to foreclosure and its equivalents, seeks to prevent, cure, or mitigate a default by the borrower or obligor; or to preserve, or prevent the diminution of, the value of the security. Workout activities include: Restructuring or renegotiating the terms of the security interest; requiring payment of additional rent or interest; exercising forbearance; requiring or exercising rights pursuant to an assignment of accounts or other amounts owed to an obligor; requiring or exercising rights pursuant to an escrow agreement pertaining to amounts owed to an obligor; providing specific or general financial or other advice, suggestions, counseling, or guidance; and exercising any right or remedy the holder is entitled to by law or under any warranties, covenants, conditions, representations, or promises from the borrower.

Sec. 1307. RCW 70.105D.030 and 2019 c 422 s 401 and 2019 c 95 s 3 are each reenacted and amended to read as follows:

(1) The department may exercise the following powers in addition to any other powers granted by law:

(a) Investigate, provide for investigating, or require potentially liable persons to investigate any releases or threatened releases of hazardous substances, including but not limited to inspecting, sampling, or testing to determine the nature or extent of any release or threatened release. If there is a reasonable basis to believe that a release or threatened release of a hazardous substance may exist, the department's authorized employees, agents, or contractors may enter upon any property and conduct investigations. The department shall give reasonable notice before entering property unless an emergency prevents such notice. The department may by subpoena require the attendance or testimony of witnesses and the production of documents or other information that the department deems necessary;

(b) Conduct, provide for conducting, or require potentially liable persons to conduct remedial actions (including investigations under (a) of this subsection) to remedy releases or threatened releases of hazardous substances. In carrying out such powers, the department's authorized employees, agents, or contractors may enter upon property. The department must give reasonable notice before entering property unless an emergency prevents such notice. In conducting, providing for, or requiring remedial action, the department must give preference to permanent solutions to the maximum extent practicable and must provide for or require adequate monitoring to ensure the effectiveness of the remedial action;

(c) Indemnify contractors retained by the department for carrying out investigations and remedial actions, but not for any contractor's reckless or willful misconduct;

(d) Carry out all state programs authorized under the federal cleanup law and the federal resource, conservation, and recovery act, 42 U.S.C. Sec. 6901 et seq., as amended;

(e) Classify substances as hazardous substances for purposes of RCW 70.105D.020 (as recodified by this act) and classify substances and products as hazardous substances for purposes of RCW 82.21.020(1);

(f) Issue orders or enter into consent decrees or agreed orders that include, or issue written opinions under RCW 70.105D.180 (as recodified by this act) that may be conditioned upon, environmental covenants where necessary to protect human health and the environment from a release or threatened release of a hazardous substance from a facility. Prior to establishing an environmental covenant under this subsection, the department must consult with and seek comment from a city or county department with land use planning authority for real property subject to the environmental covenant;

(g) Enforce the application of permanent and effective institutional controls that are necessary for a remedial action to be protective of human health and the environment and the notification requirements established in RCW 70.105D.110 (as recodified by this act), and impose penalties for violations of that section consistent with RCW 70.105D.050 (as recodified by this act);

(h) Require holders to conduct remedial actions necessary to abate an imminent or substantial endangerment pursuant to RCW 70.105D.020(22)(b)(ii)(C) (as recodified by this act);

(i) In fulfilling the objectives of this chapter, the department must allocate staffing and financial assistance in a manner that considers both the reduction of human and environmental risks and the land reuse potential and planning for the facilities to be cleaned up. This does not preclude the department from allocating resources to a facility based solely on human or environmental risks;

(j) Establish model remedies for common categories of facilities, types of hazardous substances, types of media, or geographic areas to streamline and accelerate the selection of remedies for routine types of cleanups at facilities;

(i) When establishing a model remedy, the department must:

(A) Identify the requirements for characterizing a facility to select a model remedy, the applicability of the model remedy for use at a facility, and monitoring requirements;

(B) Describe how the model remedy meets clean-up standards and the requirements for selecting a remedy established by the department under this chapter; and

(C) Provide public notice and an opportunity to comment on the proposed model remedy and the conditions under which it may be used at a facility;

(ii) When developing model remedies, the department must solicit and consider proposals from qualified persons. The proposals must, in addition to describing the model remedy, provide the information required under (j)(i)(A) and (B) of this subsection;

(iii) If a facility meets the requirements for use of a model remedy, an analysis of the feasibility of alternative remedies is not required under this chapter. For department-conducted and department-supervised remedial actions, the department must provide public notice and consider public comments on the proposed use of a model remedy at a facility; and

(k) Take any other actions necessary to carry out the provisions of this chapter, including the power to adopt rules under chapter 34.05 RCW.

(2) The department must immediately implement all provisions of this chapter to the maximum extent practicable, including investigative and remedial actions where appropriate. The department must adopt, and thereafter enforce, rules under chapter 34.05 RCW to:

(a) Provide for public participation, including at least (i) public notice of the development of investigative plans or remedial plans for releases or threatened releases and (ii) concurrent public notice of all compliance orders, agreed orders, enforcement orders, or notices of violation;

(b) Establish a hazard ranking system for hazardous waste sites;

(c) Provide for requiring the reporting by an owner or operator of releases of hazardous substances to the environment that may be a threat to human health or the environment within ninety days of discovery, including such exemptions from reporting as the department deems appropriate, however this requirement may not modify any existing requirements provided for under other laws;

(d) Establish reasonable deadlines not to exceed ninety days for initiating an investigation of a hazardous waste site after the department receives notice or otherwise receives information that the site may pose a threat to human health or the environment and other reasonable deadlines for remedying releases or threatened releases at the site;

(e) Publish and periodically update minimum clean-up standards for remedial actions at least as stringent as the clean-up standards under section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621, and at least as stringent as all applicable state and federal laws, including health-based standards under state and federal law; and

(f) Apply industrial clean-up standards at industrial properties. Rules adopted under this subsection must ensure that industrial properties cleaned up to industrial standards cannot be converted to nonindustrial uses without approval from the department. The department may require that a property cleaned up to industrial standards is cleaned up to a more stringent applicable standard as a condition of conversion to a nonindustrial use. Industrial clean-up standards may not be applied to industrial properties where hazardous substances remaining at the property after remedial action pose a threat to human health or the environment in adjacent nonindustrial areas.

(3) To achieve and protect the state's long-term ecological health, the department must plan to clean up hazardous waste sites and prevent the creation of future hazards due to improper disposal of toxic wastes at a pace that matches the estimated cash resources in the model toxics control capital account. Estimated cash resources must consider the annual cash flow requirements of major projects that receive appropriations expected to cross multiple biennia.

(4) Before September 20th of each even-numbered year, the department must:

(a) Develop a comprehensive ten-year financing report in coordination with all local governments with clean-up responsibilities that identifies the projected biennial hazardous waste site remedial action needs that are eligible for funding from the model toxics control capital account;

(b) Work with local governments to develop working capital reserves to be incorporated in the ten-year financing report;

(c) Identify the projected remedial action needs for orphaned, abandoned, and other clean-up sites that are eligible for funding from the model toxics control capital account;

(d) Project the remedial action need, cost, revenue, and any recommended working capital reserve estimate to the next biennium's long-term remedial action needs from the model toxics control capital account, and submit this

information to the appropriate standing fiscal and environmental committees of the senate and house of representatives. This submittal must also include a ranked list of such remedial action projects for the model toxics control capital account. The submittal must also identify separate budget estimates for large, multibiennia clean-up projects that exceed ten million dollars. The department must prepare its ten-year capital budget plan that is submitted to the office of financial management to reflect the separate budget estimates for these large clean-up projects and include information on the anticipated private and public funding obligations for completion of the relevant projects.

(5) By December 1st of each odd-numbered year, the department must provide the legislature and the public a report of the department's activities supported by appropriations from the model toxics control operating, capital, and stormwater accounts. The report must be prepared and displayed in a manner that allows the legislature and the public to easily determine the statewide and local progress made in cleaning up hazardous waste sites under this chapter. The report must include, at a minimum:

(a) The name, location, hazardous waste ranking, and a short description of each site on the hazardous sites list, and the date the site was placed on the hazardous waste sites list; and

(b) For sites where there are state contracts, grants, loans, or direct investments by the state:

(i) The amount of money from the model toxics control capital account used to conduct remedial actions at the site and the amount of that money recovered from potentially liable persons;

(ii) The actual or estimated start and end dates and the actual or estimated expenditures of funds authorized under this chapter for the following project phases:

(A) Emergency or interim actions, if needed;

(B) Remedial investigation;

(C) Feasibility study and selection of a remedy;

(D) Engineering design and construction of the selected remedy;

(E) Operation and maintenance or monitoring of the constructed remedy; and

(F) The final completion date.

(6) The department must establish a program to identify potential hazardous waste sites and to encourage persons to provide information about hazardous waste sites.

(7) For all facilities where an environmental covenant has been required under subsection (1)(f) of this section, including all facilities where the department has required an environmental covenant under an order, agreed order, or consent decree, or as a condition of a written opinion issued under the authority of RCW 70.105D.180 (as recodified by this act), the department must periodically review the environmental covenant for effectiveness. The department must conduct a review at least once every five years after an environmental covenant is recorded.

(a) The review must consist of, at a minimum:

(i) A review of the title of the real property subject to the environmental covenant to determine whether the environmental covenant was properly recorded and, if applicable, amended or terminated;

(ii) A physical inspection of the real property subject to the environmental covenant to determine compliance with the environmental covenant, including whether any development or redevelopment of the real property has violated the terms of the environmental covenant; and

(iii) A review of the effectiveness of the environmental covenant in limiting or prohibiting activities that may interfere with the integrity of the remedial action or that may result in exposure to or migration of hazardous substances. This must include a review of available monitoring data.

(b) If an environmental covenant has been amended or terminated without proper authority, or if the terms of an environmental covenant have been violated, or if the environmental covenant is no longer effective in limiting or prohibiting activities that may interfere with the integrity of the remedial action or that may result in exposure to or migration of hazardous substances, then the department must take any and all appropriate actions necessary to ensure compliance with the environmental covenant and the policies and requirements of this chapter.

Sec. 1308. RCW 70.105D.040 and 2013 2nd sp.s. c 1 s 7 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, the following persons are liable with respect to a facility:

(a) The owner or operator of the facility;

(b) Any person who owned or operated the facility at the time of disposal or release of the hazardous substances;

(c) Any person who owned or possessed a hazardous substance and who by contract, agreement, or otherwise arranged for disposal or treatment of the hazardous substance at the facility, or arranged with a transporter for transport for disposal or treatment of the hazardous substances at the facility, or otherwise generated hazardous wastes disposed of or treated at the facility;

(d) Any person (i) who accepts or accepted any hazardous substance for transport to a disposal, treatment, or other facility selected by such person from which there is a release or a threatened release for which remedial action is required, unless such facility, at the time of disposal or treatment, could legally receive such substance; or (ii) who accepts a hazardous substance for transport to such a facility and has reasonable grounds to believe that such facility is not operated in accordance with chapter 70.105 RCW (as recodified by this act); and

(e) Any person who both sells a hazardous substance and is responsible for written instructions for its use if (i) the substance is used according to the instructions and (ii) the use constitutes a release for which remedial action is required at the facility.

(2) Each person who is liable under this section is strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the releases or threatened releases of hazardous substances. The attorney general, at the request of the department, is empowered to recover all costs and damages from persons liable therefor.

(3) The following persons are not liable under this section:

(a) Any person who can establish that the release or threatened release of a hazardous substance for which the person would be otherwise responsible was caused solely by:

(i) An act of God;

(ii) An act of war; or

(iii) An act or omission of a third party (including but not limited to a trespasser) other than (A) an employee or agent of the person asserting the defense, or (B) any person whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly, with the person asserting this defense to liability. This defense only applies where the person asserting the defense has exercised the utmost care with respect to the hazardous substance, the foreseeable acts or omissions of the third party, and the foreseeable consequences of those acts or omissions;

(b) Any person who is an owner, past owner, or purchaser of a facility and who can establish by a preponderance of the evidence that at the time the facility was acquired by the person, the person had no knowledge or reason to know that any hazardous substance, the release or threatened release of which has resulted in or contributed to the need for the remedial action, was released or disposed of on, in, or at the facility. This subsection (3)(b) is limited as follows:

(i) To establish that a person had no reason to know, the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property, consistent with good commercial or customary practice in an effort to minimize liability. Any court interpreting this subsection (3)(b) shall take into account any specialized knowledge or experience on the part of the person, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate inspection;

(ii) The defense contained in this subsection (3)(b) is not available to any person who had actual knowledge of the release or threatened release of a hazardous substance when the person owned the real property and who subsequently transferred ownership of the property without first disclosing such knowledge to the transferee;

(iii) The defense contained in this subsection (3)(b) is not available to any person who, by any act or omission, caused or contributed to the release or threatened release of a hazardous substance at the facility;

(c) Any natural person who uses a hazardous substance lawfully and without negligence for any personal or domestic purpose in or near a dwelling or accessory structure when that person is: (i) A resident of the dwelling; (ii) a person who, without compensation, assists the resident in the use of the substance; or (iii) a person who is employed by the resident, but who is not an independent contractor;

(d) Any person who, for the purpose of growing food crops, applies pesticides or fertilizers without negligence and in accordance with all applicable laws and regulations.

(4) There may be no settlement by the state with any person potentially liable under this chapter except in accordance with this section.

(a) The attorney general may agree to a settlement with any potentially liable person only if the department finds, after public notice and any required hearing, that the proposed settlement would lead to a more expeditious cleanup of hazardous substances in compliance with clean-up standards under RCW 70.105D.030(2)(e) (as recodified by this act) and with any remedial orders

issued by the department. Whenever practicable and in the public interest, the attorney general may expedite such a settlement with persons whose contribution is insignificant in amount and toxicity. A hearing shall be required only if at least ten persons request one or if the department determines a hearing is necessary.

(b) A settlement agreement under this section shall be entered as a consent decree issued by a court of competent jurisdiction.

(c) A settlement agreement may contain a covenant not to sue only of a scope commensurate with the settlement agreement in favor of any person with whom the attorney general has settled under this section. Any covenant not to sue shall contain a reopener clause which requires the court to amend the covenant not to sue if factors not known at the time of entry of the settlement agreement are discovered and present a previously unknown threat to human health or the environment.

(d) A party who has resolved its liability to the state under this section shall not be liable for claims for contribution regarding matters addressed in the settlement. The settlement does not discharge any of the other liable parties but it reduces the total potential liability of the others to the state by the amount of the settlement.

(e) If the state has entered into a consent decree with an owner or operator under this section, the state shall not enforce this chapter against any owner or operator who is a successor in interest to the settling party unless under the terms of the consent decree the state could enforce against the settling party, if:

(i) The successor owner or operator is liable with respect to the facility solely due to that person's ownership interest or operator status acquired as a successor in interest to the owner or operator with whom the state has entered into a consent decree; and

(ii) The stay of enforcement under this subsection does not apply if the consent decree was based on circumstances unique to the settling party that do not exist with regard to the successor in interest, such as financial hardship. For consent decrees entered into before July 27, 1997, at the request of a settling party or a potential successor owner or operator, the attorney general shall issue a written opinion on whether a consent decree contains such unique circumstances. For all other consent decrees, such unique circumstances shall be specified in the consent decree.

(f) Any person who is not subject to enforcement by the state under (e) of this subsection is not liable for claims for contribution regarding matters addressed in the settlement.

(5)(a) In addition to the settlement authority provided under subsection (4) of this section, the attorney general may agree to a settlement with a prospective purchaser, provided that:

(i) The settlement will yield substantial new resources to facilitate cleanup;

(ii) The settlement will expedite remedial action at the facility consistent with the rules adopted under this chapter; and

(iii) Based on available information, the department determines that the redevelopment or reuse of the facility is not likely to contribute to the existing release or threatened release, interfere with remedial actions that may be needed at the facility, or increase health risks to persons at or in the vicinity of the facility.

(b) The legislature recognizes that the state does not have adequate resources to participate in all property transactions involving contaminated property. The primary purpose of this subsection (5) is to promote the cleanup and reuse of brownfield property. The attorney general and the department may give priority to settlements that will provide a substantial public benefit in addition to cleanup.

(c) A settlement entered under this subsection is governed by subsection (4) of this section.

(6) As an alternative to a settlement under subsection (5) of this section, the department may enter into an agreed order with a prospective purchaser of a property within a designated redevelopment opportunity zone. The agreed order is subject to the limitations in RCW 70.105D.020(1) (as recodified by this act), but stays enforcement by the department under this chapter regarding remedial actions required by the agreed order as long as the prospective purchaser complies with the requirements of the agreed order.

(7) Nothing in this chapter affects or modifies in any way any person's right to seek or obtain relief under other statutes or under common law, including but not limited to damages for injury or loss resulting from a release or threatened release of a hazardous substance. No settlement by the department or remedial action ordered by a court or the department affects any person's right to obtain a remedy under common law or other statutes.

Sec. 1309. RCW 70.105D.050 and 2019 c 422 s 402 are each amended to read as follows:

(1) With respect to any release, or threatened release, for which the department does not conduct or contract for conducting remedial action and for which the department believes remedial action is in the public interest, the director must issue orders or agreed orders requiring potentially liable persons to provide the remedial action. Any liable person, or prospective purchaser who has entered into an agreed order under RCW 70.105D.040(6) (as recodified by this act), who refuses, without sufficient cause, to comply with an order or agreed order of the director is liable in an action brought by the attorney general for:

(a) Up to three times the amount of any costs incurred by the state as a result of the party's refusal to comply; and

(b) A civil penalty of up to twenty-five thousand dollars for each day the party refuses to comply.

The treble damages and civil penalty under this subsection apply to all recovery actions filed on or after March 1, 1989.

(2) Any person who incurs costs complying with an order issued under subsection (1) of this section may petition the department for reimbursement of those costs. If the department refuses to grant reimbursement, the person may within thirty days thereafter file suit and recover costs by proving that he or she was not a liable person under RCW 70.105D.040 (as recodified by this act) and that the costs incurred were reasonable.

(3) The attorney general must seek, by filing an action if necessary, to recover the amounts spent by the department for investigative and remedial actions and orders, and agreed orders, including amounts spent prior to March 1, 1989.

(4) The attorney general may bring an action to secure such relief as is necessary to protect human health and the environment under this chapter.

(5)(a) Any person may commence a civil action to compel the department to perform any nondiscretionary duty under this chapter. At least thirty days before commencing the action, the person must give notice of intent to sue, unless a substantial endangerment exists. The court may award attorneys' fees and other costs to the prevailing party in the action.

(b) Civil actions under this section and RCW 70.105D.060 (as recodified by this act) may be brought in the superior court of Thurston county or of the county in which the release or threatened release exists.

(6) Any person who fails to provide notification of releases consistent with RCW 70.105D.110 (as recodified by this act) or who submits false information is liable in an action brought by the attorney general for a civil penalty of up to five thousand dollars per day for each day the party refuses to comply.

(7) Any person who owns real property or lender holding a mortgage on real property that is subject to a lien filed under RCW 70.105D.055 (as recodified by this act) may petition the department to have the lien removed or the amount of the lien reduced. If, after consideration of the petition and the information supporting the petition, the department decides to deny the request, the person may, within ninety days after receipt of the department's denial, file suit for removal or reduction of the lien. The person is entitled to removal of a lien filed under RCW 70.105D.055(2)(a) (as recodified by this act) if they can prove by a preponderance of the evidence that the person is not a liable party under RCW 70.105D.040 (as recodified by this act). The person is entitled to a reduction of the amount of the lien if they can prove by a preponderance of the evidence:

(a) For liens filed under RCW 70.105D.055(2)(a) (as recodified by this act), the amount of the lien exceeds the remedial action costs the department incurred related to cleanup of the real property; and

(b) For liens filed under RCW 70.105D.055(2)(c) (as recodified by this act), the amount of the lien exceeds the remedial action costs the department incurred related to cleanup of the real property or exceeds the increase of the fair market value of the real property solely attributable to the remedial action conducted by the department.

(8) The expenditure of moneys under the model toxics control operating, capital, and stormwater accounts created in RCW 70.105D.190 through 70.105D.210 (as recodified by this act) does not alter the liability of any person under this chapter, or the authority of the department under this chapter, including the authority to recover those moneys.

Sec. 1310. RCW 70.105D.055 and 2005 c 211 s 1 are each amended to read as follows:

(1) It is in the public interest for the department to recover remedial action costs incurred in discharging its responsibility under this chapter, as these recovered funds can then be applied to the cleanup of other facilities. Thus, in addition to other cost-recovery mechanisms provided under this chapter, this section is intended to facilitate the recovery of state funds spent on remedial actions by providing the department with lien authority. This will also prevent a facility owner or mortgagee from gaining a financial windfall from increased land value resulting from department-conducted remedial actions at the expense of the state taxpayers.

(2) If the state of Washington incurs remedial action costs relating to a remedial action of real property, and those remedial action costs are unrecovered

by the state of Washington, the department may file a lien against that real property.

(a) Except as provided in (c) of this subsection, liens filed under this section shall have priority in rank over all other privileges, liens, monetary encumbrances, or other security interests affecting the real property, whenever incurred, filed, or recorded, except for the following liens:

(i) Local and special district property tax assessments; and

(ii) Mortgage liens recorded before liens or notices of intent to conduct remedial actions are recorded under this section.

(b) Liens filed pursuant to (a) and (c) of this subsection shall not exceed the remedial action costs incurred by the state.

(c)(i) If the real property for which the department has incurred remedial action costs is abandoned, the department may choose to limit the amount of the lien to the increase in the fair market value of the real property that is attributable to a remedial action conducted by the department. The increase in fair market value shall be determined by subtracting the county assessor's value of the real property for the most recent year prior to remedial action being initiated from the value of the real property after remedial action. The value of the real property after remedial action shall be determined by the bona fide purchase price of the real property or by a real estate appraiser retained by the department. Liens limited in this way have priority in rank over all other privileges, liens, monetary encumbrances, or other security interests affecting the real property, whenever incurred, filed, or recorded.

(ii) For the purposes of this subsection, "abandoned" means there has not been significant business activity on the real property for three years or property taxes owed on the real property are three years in arrears prior to the department incurring costs attributable to this lien.

(d) The department shall, when notifying potentially liable persons of their potential liability under RCW 70.105D.040 (as recodified by this act), include a notice stating that if the department incurs remedial action costs relating to the remediation of real property and the costs are not recovered by the department, the department may file a lien against that real property under this section.

(e) Except for emergency remedial actions, the department must provide notice to the following persons before initiating remedial actions conducted by persons under contract to the department on real property on which a lien may be filed under this section:

(i) The real property owner;

(ii) Mortgagees;

(iii) Lienholders of record;

(iv) Persons known to the department to be conducting remedial actions at the facility at the time of such notice; and

(v) Persons known to the department to be under contract to conduct remedial actions at the facility at the time of such notice.

For emergency remedial actions, this notice shall be provided within thirty days after initiation of the emergency remedial actions.

(f) The department may record a copy of the notice in (e) of this subsection, along with a legal description of the property on which the remedial action will take place, with the county auditor in the county where the real property is

located. If the department subsequently files a lien, the effective date of the lien will be the date this notice was recorded.

(3) Before filing a lien under this section, the department shall give the owner of real property on which the lien is to be filed and mortgagees and lienholders of record a notice of its intent to file a lien:

(a) The notice required under this subsection (3) must be sent by certified mail to the real property owner and mortgagees of record at the addresses listed in the recorded documents. If the real property owner is unknown or if a mailed notice is returned as undeliverable, the department shall provide notice by posting a legal notice in the newspaper of largest circulation in the county (~~in which~~) in which the site is located. The notice shall provide:

(i) A statement of the purpose of the lien;

(ii) A brief description of the real property to be affected by the lien;

(iii) A statement of the remedial action costs incurred by the state related to the real property affected by the lien;

(iv) A brief statement of facts showing probable cause that the real property is the subject of the remedial action costs incurred by the department; and

(v) The time period following service or other notice during which any recipient of the notice whose legal rights may be affected by the lien may comment on the notice.

(b) Any comments on the notice must be received by the department on or before thirty days following service or other provision of the notice of intent to file a lien.

(c) If no comments are received by the department, the lien may be filed on the real property immediately.

(d) If the department receives any comments on the lien, the department shall determine if there is probable cause for filing the certificate of lien. If the department determines there is probable cause, the department may file the lien. Any further challenge to the lien may only occur at the times specified under RCW 70.105D.060 (as recodified by this act).

(e) If the department has reason to believe that exigent circumstances require the filing of a lien prior to giving notice under this subsection (3), or prior to the expiration of the time period for comments, the department may file the lien immediately. For the purposes of this subsection (3), exigent circumstances include, but are not limited to, an imminent bankruptcy filing by the real property owner, or the imminent transfer or sale of the real property subject to lien by the real property owner, or both.

(4) A lien filed under this section is effective when a statement of lien is filed with the county auditor in the county where the real property is located. The statement of lien must include a description of the real property subject to lien and the amount of the lien.

(5) Unless the department determines it is in the public interest to remove the lien, the lien continues until the liability for the remedial action costs have been satisfied through sale of the real property, foreclosure, or other means agreed to by the department. Any action for foreclosure of the lien shall be brought by the attorney general in a civil action in the court having jurisdiction and in the manner prescribed for the judicial foreclosure of a mortgage.

(6)(a) This section does not apply to real property owned by a local government or special purpose district or real property used solely for residential

purposes and consisting of four residential units or less at the time the lien is recorded. This limitation does not apply to illegal drug manufacturing and storage sites under chapter 64.44 RCW.

(b) If the real property owner has consented to the department filing a lien on the real property, then only subsection (3)(a)(i) through (iii) of this section requiring notice to mortgagees and lienholders of record apply.

Sec. 1311. RCW 70.105D.060 and 2007 c 104 s 20 are each amended to read as follows:

The department's investigative and remedial decisions under RCW 70.105D.030 and 70.105D.050 (as recodified by this act), its decisions regarding filing a lien under RCW 70.105D.055 (as recodified by this act), and its decisions regarding liable persons under RCW 70.105D.020, 70.105D.040, 70.105D.050, and 70.105D.055 (as recodified by this act) shall be reviewable exclusively in superior court and only at the following times: (1) In a cost recovery suit under RCW 70.105D.050(3) (as recodified by this act); (2) in a suit by the department to enforce an order or an agreed order, or seek a civil penalty under this chapter; (3) in a suit for reimbursement under RCW 70.105D.050(2) (as recodified by this act); (4) in a suit by the department to compel investigative or remedial action; (5) in a citizen's suit under RCW 70.105D.050(5) (as recodified by this act); and (6) in a suit for removal or reduction of a lien under RCW 70.105D.050(7) (as recodified by this act). Except in suits for reduction or removal of a lien under RCW 70.105D.050(7) (as recodified by this act), the court shall uphold the department's actions unless they were arbitrary and capricious. In suits for reduction or removal of a lien under RCW 70.105D.050(7) (as recodified by this act), the court shall review such suits pursuant to the standards set forth in RCW 70.105D.050(7) (as recodified by this act).

Sec. 1312. RCW 70.105D.080 and 1997 c 406 s 6 are each amended to read as follows:

Except as provided in RCW 70.105D.040(4) (d) and (f) (as recodified by this act), a person may bring a private right of action, including a claim for contribution or for declaratory relief, against any other person liable under RCW 70.105D.040 (as recodified by this act) for the recovery of remedial action costs. In the action, natural resource damages paid to the state under this chapter may also be recovered. Recovery shall be based on such equitable factors as the court determines are appropriate. Remedial action costs shall include reasonable attorneys' fees and expenses. Recovery of remedial action costs shall be limited to those remedial actions that, when evaluated as a whole, are the substantial equivalent of a department-conducted or department-supervised remedial action. Substantial equivalence shall be determined by the court with reference to the rules adopted by the department under this chapter. An action under this section may be brought after remedial action costs are incurred but must be brought within three years from the date remedial action confirms cleanup standards are met or within one year of May 12, 1993, whichever is later. The prevailing party in such an action shall recover its reasonable attorneys' fees and costs. This section applies to all causes of action regardless of when the cause of action may have arisen. To the extent a cause of action has arisen prior to May 12, 1993, this section applies retroactively, but in all other respects it applies prospectively.

Sec. 1313. RCW 70.105D.090 and 2003 c 39 s 30 are each amended to read as follows:

(1) A person conducting a remedial action at a facility under a consent decree, order, or agreed order, and the department when it conducts a remedial action, are exempt from the procedural requirements of chapters 70.94 (as recodified by this act), 70.95 (as recodified by this act), 70.105 (as recodified by this act), 77.55, 90.48, and 90.58 RCW, and the procedural requirements of any laws requiring or authorizing local government permits or approvals for the remedial action. The department shall ensure compliance with the substantive provisions of chapters 70.94 (as recodified by this act), 70.95 (as recodified by this act), 70.105 (as recodified by this act), 77.55, 90.48, and 90.58 RCW, and the substantive provisions of any laws requiring or authorizing local government permits or approvals. The department shall establish procedures for ensuring that such remedial actions comply with the substantive requirements adopted pursuant to such laws, and shall consult with the state agencies and local governments charged with implementing these laws. The procedures shall provide an opportunity for comment by the public and by the state agencies and local governments that would otherwise implement the laws referenced in this section. Nothing in this section is intended to prohibit implementing agencies from charging a fee to the person conducting the remedial action to defray the costs of services rendered relating to the substantive requirements for the remedial action.

(2) An exemption in this section or in RCW 70.94.335 (as recodified by this act), 70.95.270 (as recodified by this act), 70.105.116 (as recodified by this act), (~~77.55.030~~) 77.55.061, 90.48.039, and 90.58.355 shall not apply if the department determines that the exemption would result in loss of approval from a federal agency necessary for the state to administer any federal law, including the federal resource conservation and recovery act, the federal clean water act, the federal clean air act, and the federal coastal zone management act. Such a determination by the department shall not affect the applicability of the exemptions to other statutes specified in this section.

Sec. 1314. RCW 70.105D.110 and 2019 c 95 s 5 are each amended to read as follows:

(1) Except as provided in subsection (5) of this section, any owner or operator of a facility that is actively transitioning from operating under a federal permit for treatment, storage, or disposal of hazardous waste issued under 42 U.S.C. Sec. 6925 to operating under the provisions of this chapter, who has information that a hazardous substance has been released to the environment at the owner or operator's facility that may be a threat to human health or the environment, shall issue a notice to the department within ninety days. The notice shall include a description of any remedial actions planned, completed, or underway.

(2) The notice must be posted in a visible, publicly accessible location on the facility, to remain in place until all remedial actions except confirmational monitoring are complete.

(3) After receiving the notice from the facility, the department must review the notice and mail a summary of its contents, along with any additional information deemed appropriate by the department, to:

(a) Each residence and landowner of a residence whose property boundary is within three hundred feet of the boundary of the property where the release occurred or if the release occurred from a pipeline or other facility that does not have a property boundary, within three hundred feet of the actual release;

(b) Each business and landowner of a business whose property boundary is within three hundred feet of the boundary of the property where the release occurred;

(c) Each residence, landowner of a residence, and business with a property boundary within the area where hazardous substances have come to be located as a result of the release;

(d) Neighborhood associations and community organizations representing an area within one mile of the facility and recognized by the city or county with jurisdiction within this area;

(e) The city, county, and local health district with jurisdiction within the areas described in (a), (b), and (c) of this subsection; and

(f) The department of health.

(4) A notice produced by a facility shall provide the following information:

(a) The common name of any hazardous substances released and, if available, the chemical abstract service registry number of these substances;

(b) The address of the facility where the release occurred;

(c) The date the release was discovered;

(d) The cause and date of the release, if known;

(e) The remedial actions being taken or planned to address the release;

(f) The potential health and environmental effects of the hazardous substances released; and

(g) The name, address, and telephone number of a contact person at the facility where the release occurred.

(5) The following releases are exempt from the notification requirements in this section:

(a) Application of pesticides and fertilizers for their intended purposes and according to label instructions;

(b) The lawful and nonnegligent use of hazardous household substances by a natural person for personal or domestic purposes;

(c) The discharge of hazardous substances in compliance with permits issued under chapter 70.94 (as recodified by this act), 90.48, or 90.56 RCW;

(d) De minimis amounts of any hazardous substance leaked or discharged onto the ground;

(e) The discharge of hazardous substances to a permitted waste water treatment facility or from a permitted waste water collection system or treatment facility as allowed by a facility's discharge permit;

(f) Any releases originating from a single-family or multifamily residence, including but not limited to the discharge of oil from a residential home heating oil tank with the capacity of five hundred gallons or less;

(g) Any spill on a public road, street, or highway or to surface waters of the state that has previously been reported to the United States coast guard and the state division of emergency management under chapter 90.56 RCW;

(h) Any release of hazardous substances to the air;

(i) Any release that occurs on agricultural land, including land used to grow trees for the commercial production of wood or wood fiber, that is at least five

acres in size, when the effects of the release do not come within three hundred feet of any property boundary. For the purposes of this subsection, agricultural land includes incidental uses that are compatible with agricultural or silvicultural purposes, including, but not limited to, land used for the housing of the owner, operator, or employees, structures used for the storage or repair of equipment, machinery, and chemicals, and any paths or roads on the land; and

(j) Releases that, before January 1, 2003, have been previously reported to the department, or remediated in compliance with a settlement agreement under RCW 70.105D.040(4) (as recodified by this act) or enforcement order or agreed order issued under this chapter or have been the subject of an opinion from the department under RCW 70.105D.180 (as recodified by this act) that no further remedial action is required.

An exemption from the notification requirements of this section does not exempt the owner or operator of a facility from any other notification or reporting requirements, or imply a release from liability under this chapter.

(6) If a significant segment of the community to be notified speaks a language other than English, an appropriate translation of the notice must also be posted and mailed to the department in accordance with the requirements of this section.

(7) The facility where the release occurred is responsible for reimbursing the department within thirty days for the actual costs associated with the production and mailing of the notices under this section.

Sec. 1315. RCW 70.105D.130 and 2019 c 422 s 413 are each amended to read as follows:

(1) The cleanup settlement account is created in the state treasury. The account is not intended to replace the model toxics control capital account established under RCW 70.105D.200 (as recodified by this act). All receipts from the sources identified in subsection (2) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as identified in subsection (4) of this section.

(2) The following receipts must be deposited into the cleanup settlement account:

(a) Receipts from settlements or court orders that direct payment to the account and resolve a person's liability or potential liability under this chapter for either or both of the following:

(i) Conducting future remedial action at a specific facility, if it is not feasible to require the person to conduct the remedial action based on the person's financial insolvency, limited ability to pay, or insignificant contribution under RCW 70.105D.040(4)(a) (as recodified by this act);

(ii) Assessing or addressing the injury to natural resources caused by the release of a hazardous substance from a specific facility; and

(b) Receipts from investment of the moneys in the account.

(3) If a settlement or court order does not direct payment of receipts described in subsection (2)(a) of this section into the cleanup settlement account, then the receipts from any payment to the state must be deposited into the model toxics control capital account.

(4) Expenditures from the cleanup settlement account may only be used to conduct remedial actions at the specific facility or to assess or address the injury

to natural resources caused by the release of hazardous substances from that facility for which the moneys were deposited in the account. Conducting remedial actions or assessing or addressing injury to natural resources includes direct expenditures and indirect expenditures such as department oversight costs. During the 2009-2011 fiscal biennium, the legislature may transfer excess fund balances in the account into the state efficiency and restructuring account. Transfers of excess fund balances made under this section may be made only to the extent amounts transferred with required repayments do not impair the ten-year spending plan administered by the department of ecology for environmental remedial actions dedicated for any designated clean-up site associated with the Everett smelter and Tacoma smelter, including plumes, or former Asarco mine sites. The cleanup settlement account must be repaid with interest under provisions of the state efficiency and restructuring account.

(5) The department must track moneys received, interest earned, and moneys expended separately for each facility.

(6) After the department determines that all remedial actions at a specific facility, and all actions assessing or addressing injury to natural resources caused by the release of hazardous substances from that facility, are completed, including payment of all related costs, any moneys remaining for the specific facility must be transferred to the model toxics control capital account established under RCW 70.105D.200 (as recodified by this act).

(7) The department must provide the office of financial management and the fiscal committees of the legislature with a report by October 31st of each year regarding the activity within the cleanup settlement account during the previous fiscal year.

Sec. 1316. RCW 70.105D.140 and 2019 c 422 s 414 are each amended to read as follows:

(1) The brownfield redevelopment trust fund account is created in the state treasury. All receipts from the sources identified in subsection (2) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as identified in subsection (4) of this section.

(2) The following receipts must be deposited into the brownfield redevelopment trust fund account:

(a) Moneys appropriated by the legislature to the account for a specific redevelopment opportunity zone established under RCW 70.105D.150 (as recodified by this act) or a specific brownfield renewal authority established under RCW 70.105D.160 (as recodified by this act);

(b) Moneys voluntarily deposited in the account for a specific redevelopment opportunity zone or a specific brownfield renewal authority; and

(c) Receipts from settlements or court orders that direct payment to the account for a specific redevelopment opportunity zone to resolve a person's liability or potential liability under this chapter.

(3) If a settlement or court order does not direct payment of receipts described in subsection (2)(c) of this section into the brownfield redevelopment trust fund account, then the receipts from any payment to the state must be deposited into the model toxics control capital account established under RCW 70.105D.200 (as recodified by this act).

(4) Expenditures from the brownfield redevelopment trust fund account may only be used for the purposes of remediation and cleanup at the specific redevelopment opportunity zone or specific brownfield renewal authority for which the moneys were deposited in the account.

(5) The department must track moneys received, interest earned, and moneys expended separately for each facility.

(6) The account must retain its interest earnings in accordance with RCW 43.84.092.

(7) The local government designating the redevelopment opportunity zone under RCW 70.105D.150 (as recodified by this act) or the associated brownfield renewal authority created under RCW 70.105D.160 (as recodified by this act) must be the beneficiary of the deposited moneys.

(8) All expenditures must be used to conduct remediation and cleanup consistent with a plan for the remediation and cleanup of the properties or facilities approved by the department under this chapter. All expenditures must meet the eligibility requirements for the use by local governments under the rules for remedial action grants adopted by the department under this chapter, including requirements for the expenditure of nonstate match funding.

(9) Beginning October 31, 2015, the department must provide a biennial report to the office of financial management and the legislature regarding the activity for each specific redevelopment opportunity zone or specific brownfield renewal authority for which specific legislative appropriation was provided in the previous two fiscal years.

(10) After the department determines that all remedial actions within the redevelopment opportunity zone identified in the plan approved under subsection (8) of this section are completed, including payment of all cost reasonably attributable to the remedial actions and cleanup, any remaining moneys must be transferred to the model toxics control capital account established under RCW 70.105D.200 (as recodified by this act).

(11) If the department determines that substantial progress has not been made on the plan approved under subsection (8) of this section for a redevelopment opportunity zone or specific brownfield renewal authority for which moneys were deposited in the account within six years, or that the brownfield renewal authority is no longer a viable entity, then all remaining moneys must be transferred to the model toxics control operating account established under RCW 70.105D.190 (as recodified by this act).

(12) The department is authorized to adopt rules to implement this section.

Sec. 1317. RCW 70.105D.160 and 2013 2nd sp.s. c 1 s 5 are each amended to read as follows:

(1) A city, county, or port district may establish by resolution a brownfield renewal authority for the purpose of guiding and implementing the cleanup and reuse of properties within a designated redevelopment opportunity zone. Any combination of cities, counties, and port districts may establish a brownfield renewal authority through an interlocal agreement under chapter 39.34 RCW, and the brownfield renewal authority may exercise those powers as are authorized under chapter 39.34 RCW and under this chapter.

(2) A brownfield renewal authority must be governed by a board of directors selected as determined by the resolution or interlocal agreement establishing the authority.

(3) A brownfield renewal authority must be a separate legal entity and be deemed a municipal corporation. It has the power to: Sue and be sued; receive, account for, and disburse funds; employ personnel; and acquire or dispose of any interest in real or personal property within a redevelopment opportunity zone in the furtherance of the authority purposes. A brownfield renewal authority has the power to contract indebtedness and to issue and sell general obligation bonds pursuant to and in the manner provided for general county bonds in chapters 36.67 and 39.46 RCW and other applicable statutes, and to issue revenue bonds pursuant to and in the manner provided for revenue bonds in chapter 36.67 RCW and other applicable statutes.

(4) If the department determines that substantial progress has not been made on the plan approved under RCW 70.105D.140 (as recodified by this act) by the brownfield renewal authority within six years of a city, county, or port district establishing a brownfield renewal authority, the department may require dissolution of the brownfield renewal authority. Upon dissolution of the brownfield renewal authority, except as provided in RCW 70.105D.140 (as recodified by this act), all assets and liabilities transfer to the city, town, or port district establishing the brownfield renewal authority.

Sec. 1318. RCW 70.105D.180 and 2019 c 95 s 2 are each amended to read as follows:

(1) The department may establish a program to provide informal advice and assistance on the administrative and technical requirements of this chapter to persons who are conducting or otherwise interested in conducting independent remedial actions at facilities where there is a suspected or confirmed release of hazardous substances.

(a) Any advice or assistance is advisory only and is not binding on the department.

(b) As part of this advice and assistance, the department may provide written opinions on whether the independent remedial actions or proposals for those actions meet the substantive requirements of this chapter or whether the department believes further remedial action is necessary at the facility.

(c) Nothing in this chapter may be construed to preclude the department from issuing a written opinion on whether further remedial action is necessary at any portion of the real property located within a facility, even if further remedial action is still necessary elsewhere at the same facility. A written opinion on a portion of a facility must also provide an opinion on the status of the facility as a whole.

(2) The department may collect, from persons requesting advice and assistance under the program, all costs incurred by the department in providing advice and assistance.

(a) To collect its costs, the department may use either a cost recovery structure or a fee structure, or both.

(i) A fee structure may include either a single fee or a series of fees for individual services.

(ii) The department may calculate fees based on the complexity of the contaminated site and other site-specific factors determined by the department.

(iii) The department may establish a separate fee and cost recovery structure for providing expedited advice and assistance under subsection (3) of this section.

(b) The department may waive collection of costs if the person requesting technical advice and assistance under the program commits to remediate contaminated real property for development of affordable housing, as determined by the department. Prior to waiving costs, the department must consider the requestor's ability to pay and the potential public benefit of the development. To ensure the real property is used for affordable housing, the department may file a lien against the real property pursuant to RCW 70.105D.055 (as recodified by this act), require the person to record an interest in the real property in accordance with RCW 64.04.130, or use other means deemed by the department to be no less protective of the affordable housing use and the interests of the department.

(c) Except when providing expedited advice and assistance under subsection (3) of this section, the department may also waive collection of costs:

(i) For providing technical assistance in support of public participation;

(ii) For providing written opinions on a cleanup that qualifies for and appropriately uses a model remedy; or

(iii) Based on a person's ability to pay. If costs are waived, the department may file a lien against the real property for which the department has incurred the costs pursuant to RCW 70.105D.055 (as recodified by this act).

(3) The department may offer an expedited process for providing informal advice and assistance under the program. Except as provided under subsection (2)(b) of this section, the department must collect, from persons requesting expedited advice and assistance, all costs incurred by the department in providing the advice and assistance. The department may establish conditions for requesting expedited advice and assistance.

(4) The department may adopt rules to implement the program. To ensure that the adoption of rules will not delay the implementation of independent remedial actions, the department may implement the cost waiver and expedited process specified in subsections (2)(b) and (3) of this section through interpretive guidance pending adoption of rules.

(5) The department must track the number of requests for reviews of planned or completed independent remedial actions under the program and establish performance measures to track how quickly the department is able to respond to those requests. The department's tracking system must include a category for tracking the length of time that elapses between the submission of a request for expedited advice and assistance on an independent remedial action at a facility under subsection (3) of this section and the issuance of a letter on the sufficiency of the cleanup at the facility.

(6) The state, the department, and officers and employees of the state are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing, or failing to provide, informal advice and assistance under the program.

(7) The voluntary cleanup account is created in the state treasury. All receipts from the fees collected and costs recovered under the expedited process in subsection (3) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to support the expedited process in subsection (3) of this section. If the department suspends the expedited process, any moneys remaining in the account may be used to carry out the purposes of the program.

The account must retain its interest earnings in accordance with RCW 43.84.092.

Sec. 1319. RCW 70.105D.190 and 2019 c 422 s 202 are each amended to read as follows:

(1) The model toxics control operating account is hereby created in the state treasury.

(2) Moneys in the model toxics control operating account must be used only to carry out the purposes of this chapter, including but not limited to the following:

(a) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW (as recodified by this act);

(b) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW (as recodified by this act);

(c) The hazardous waste clean-up program required under this chapter;

(d) State matching funds required under federal cleanup law;

(e) Financial assistance for local programs and plans, including local solid waste financial assistance, in accordance with chapters 70.76, 70.95, 70.95C, 70.95I, and 70.105 RCW (as recodified by this act);

(f) State government programs for the safe reduction, recycling, or disposal of paint and hazardous wastes from households, small businesses, and agriculture;

(g) Oil and hazardous materials spill prevention, preparedness, training, and response activities;

(h) Water and environmental health protection and monitoring programs;

(i) Programs authorized under chapter 70.146 RCW (as recodified by this act);

(j) A public participation program;

(k) Development and demonstration of alternative management technologies designed to carry out the hazardous waste management priorities of RCW 70.105.150 (as recodified by this act);

(l) State agriculture and health programs for the safe use, reduction, recycling, or disposal of pesticides;

(m) Funding requirements to maintain receipt of federal funds under the federal solid waste disposal act (42 U.S.C. Sec. 6901 et seq.);

(n) Air quality programs and actions for reducing public exposure to toxic air pollution; and

(o) Petroleum-based plastic or expanded polystyrene foam debris clean-up activities in fresh or marine waters.

(3) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in model toxics control operating account may be spent only after appropriation by statute.

(4) One percent of the moneys collected under RCW 82.21.030 must be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to

implement the state's solid and hazardous waste management priorities. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation that are not expended at the close of any biennium revert to the model toxics control operating account.

(5) The department must adopt rules for grant or loan issuance and performance.

Sec. 1320. RCW 70.105D.200 and 2019 c 422 s 203 are each amended to read as follows:

(1) The model toxics control capital account is hereby created in the state treasury.

(2) In addition to the funds deposited into the model toxics control capital account required under RCW 82.21.030, the following moneys must be deposited into the model toxics control capital account:

(a) The costs of remedial actions recovered under this chapter, except as provided under RCW 70.105D.180(7) (as recodified by this act);

(b) Penalties collected or recovered under this chapter; and

(c) Any other money appropriated or transferred to the account by the legislature.

(3) Moneys in the model toxics control capital account must be used for the improvement, rehabilitation, remediation, and cleanup of toxic sites and other capital-related expenditures for programs and activities identified in subsection (4) of this section.

(4) Moneys in the model toxics control capital account may be used only for capital projects and activities that carry out the purposes of this chapter and for financial assistance to local governments or other persons to carry out those projects or activities, including but not limited to the following, generally in descending order of priority:

(a) Remedial actions, including the following generally in descending order of priority:

(i) Extended grant agreements entered into under subsection (5)(a) of this section;

(ii) Grants or loans to local governments for remedial actions, including planning for adaptive reuse of properties as provided for under subsection (5)(d) of this section. The department must prioritize funding of remedial actions at:

(A) Facilities on the department's hazardous sites list with a high hazard ranking for which there is an approved remedial action work plan or an equivalent document under federal cleanup law;

(B) Brownfield properties within a redevelopment opportunity zone if the local government is a prospective purchaser of the property and there is a department-approved remedial action work plan or equivalent document under the federal cleanup law;

(iii) Department-conducted remedial actions;

(iv) Grants to persons intending to remediate contaminated real property for development of affordable housing;

(v) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with clean-up standards under RCW 70.105D.030(2)(c) (as recodified by this act) if:

(A) The amount and terms of the funding are established under a settlement agreement under RCW 70.105D.040(4) (as recodified by this act); and

(B) The director has found that the funding will achieve both a substantially more expeditious or enhanced cleanup than would otherwise occur, and the prevention or mitigation of unfair economic hardship;

(vi) Public funding to assist prospective purchasers to pay for the costs of remedial action in compliance with clean-up standards under RCW 70.105D.030(2)(e) (as recodified by this act) if:

(A) The facility is located within a redevelopment opportunity zone designated under RCW 70.105D.150 (as recodified by this act);

(B) The amount and terms of the funding are established under a settlement agreement under RCW 70.105D.040(5) (as recodified by this act); and

(C) The director has found the funding will achieve a substantially more expeditious or enhanced cleanup than would otherwise occur, provide a public benefit in addition to cleanup commensurate with the scope of the public funding; and meet any additional criteria established in rule by the department; and

(vii) To expedite multiparty clean-up efforts, purchase of remedial action cost-cap insurance;

(b) Grants, or loans, or contracts to local governments for solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, 70.95G, 70.95M, and 70.105 RCW (as recodified by this act). Funds must be allocated consistent with priorities and matching requirements in the respective chapters;

(c) Toxic air pollutant reduction programs, including grants or loans to local governments for woodstoves and diesel;

(d) Grants, loans, or contracts to local governments for hazardous waste plans and programs under chapters 70.76 and 70.105 RCW (as recodified by this act), including chemical action plan implementation. Funds must be allocated consistent with priorities and matching requirements in the respective chapters; and

(e) Petroleum-based plastic or expanded polystyrene foam debris clean-up activities in fresh or marine waters.

(5) The department may establish and administer a program to provide grants and loans to local governments for remedial actions, including planning for adaptive reuse of contaminated properties. The department may not award a grant or loan for a remedial action unless the local government has obtained all of the required permits for the action within one year of the effective date of the enacted budget. To expedite cleanups throughout the state, the department may use the following strategies when providing grants to local governments under this subsection:

(a) Enter into an extended grant agreement with a local government conducting remedial actions at a facility where those actions extend over multiple biennia and the total eligible cost of those actions exceeds twenty million dollars. The agreement is subject to the following limitations:

(i) The initial duration of such an agreement may not exceed ten years. The department may extend the duration of such an agreement upon finding substantial progress has been made on remedial actions at the facility;

(ii) Extended grant agreements may not exceed fifty percent of the total eligible remedial action costs at the facility; and

(iii) The department may not allocate future funding to an extended grant agreement unless the local government has demonstrated to the department that

funds awarded under the agreement during the previous biennium have been substantially expended or contracts have been entered into to substantially expend the funds;

(b) Enter into a grant agreement with a local government conducting a remedial action that provides for periodic reimbursement of remedial action costs as they are incurred as established in the agreement;

(c) Enter into a grant agreement with a local government prior to it acquiring a property or obtaining necessary access to conduct remedial actions, provided the agreement is conditioned upon the local government acquiring the property or obtaining the access in accordance with a schedule specified in the agreement;

(d) Provide integrated planning grants to local governments to fund studies necessary to facilitate remedial actions at brownfield properties and adaptive reuse of properties following remediation. Eligible activities include, but are not limited to: Environmental site assessments; remedial investigations; health assessments; feasibility studies; site planning; community involvement; land use and regulatory analyses; building and infrastructure assessments; economic and fiscal analyses; and any environmental analyses under chapter 43.21C RCW;

(e) Provide grants to local governments for remedial actions related to area-wide groundwater contamination. To receive the funding, the local government does not need to be a potentially liable person or be required to seek reimbursement of grant funds from a potentially liable person;

(f) The director may alter grant matching requirements to create incentives for local governments to expedite cleanups when one of the following conditions exists:

(i) Funding would prevent or mitigate unfair economic hardship imposed by the clean-up liability;

(ii) Funding would create new substantial economic development, public recreational opportunities, or habitat restoration opportunities that would not otherwise occur; or

(iii) Funding would create an opportunity for acquisition and redevelopment of brownfield property under RCW 70.105D.040(5) (as recodified by this act) that would not otherwise occur; and

(g) When pending grant applications under subsection (4)(d) and (e) of this section exceed the amount of funds available, designated redevelopment opportunity zones must receive priority for distribution of available funds.

(6) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in model toxics control capital account may be spent only after appropriation by statute.

Sec. 1321. RCW 70.105D.210 and 2019 c 422 s 204 are each amended to read as follows:

(1) The model toxics control stormwater account is hereby created in the state treasury.

(2) Moneys in the model toxics control stormwater account must be used for operating and capital programs, activities, and projects identified in subsection (3) of this section directly relating to stormwater pollution control.

(3) Moneys in the model toxics control stormwater account must be used only to carry out the operating and capital programs, activities, and projects directly relating to stormwater activities under RCW 70.105D.190 and

70.105D.200 (as recodified by this act), including but not limited to the following:

(a) Stormwater pollution control projects and activities that protect or preserve existing remedial actions or prevent hazardous clean-up sites;

(b) Stormwater financial assistance to local governments that assist in compliance to the purposes of this chapter.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the model toxics control stormwater account may be spent only after appropriation by statute.

Sec. 1322. RCW 70.106.030 and 1974 ex.s. c 49 s 3 are each amended to read as follows:

The definitions in RCW 70.106.040 through 70.106.090 (as recodified by this act) unless the context otherwise requires shall govern the construction of this chapter.

Sec. 1323. RCW 70.106.070 and 1974 ex.s. c 49 s 7 are each amended to read as follows:

"Package" means the immediate container or wrapping in which any household substance is contained for consumption, use, or storage by individuals in or about the household, and, for purposes of RCW 70.106.110(1)(b) (as recodified by this act), also means any outer container or wrapping used in the retail display of any such substance to consumers. Such term does not include:

(1) Any shipping container or wrapping used solely for the transportation of any household substance in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof; or

(2) Any shipping container or outer wrapping used by retailers to ship or deliver any household substance to consumers unless it is the only such container or wrapping.

Sec. 1324. RCW 70.106.100 and 2012 c 117 s 419 are each amended to read as follows:

(1) The director may establish in accordance with the provisions of this chapter, by regulation, standards for the special packaging of any household substance if he or she finds that:

(a) The degree or nature of the hazard to children in the availability of such substance, by reason of its packaging is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance; and

(b) The special packaging to be required by such standard is technically feasible, practicable, and appropriate for such substance.

(2) In establishing a standard under this section, the director shall consider:

(a) The reasonableness of such standard;

(b) Available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances;

(c) The manufacturing practices of industries affected by this chapter; and

(d) The nature and use of the household substance.

(3) In carrying out the provisions of this chapter, the director shall publish his or her findings, his or her reasons therefor, and citation of the sections of statutes which authorize his or her action.

(4) Nothing in this chapter authorizes the director to prescribe specific packaging designs, product content, package quantity, or, with the exception of authority granted in RCW 70.106.110(1)(b) (as recodified by this act), labeling. In the case of a household substance for which special packaging is required pursuant to a regulation under this section, the director may in such regulation prohibit the packaging of such substance in packages which he or she determines are unnecessarily attractive to children.

(5) The director shall cause the regulations promulgated under this chapter to conform with the requirements or exemptions of the federal hazardous substances act and with the regulations or interpretations promulgated pursuant thereto.

Sec. 1325. RCW 70.106.110 and 2012 c 117 s 420 are each amended to read as follows:

(1) For the purpose of making any household substance which is subject to a standard established under RCW 70.106.100 (as recodified by this act) readily available to elderly persons or persons with disabilities unable to use such substance when packaged in compliance with such standard, the manufacturer or packer, as the case may be, may package any household substance, subject to such a standard, in packaging of a single size which does not comply with such standard if:

(a) The manufacturer or packer also supplies such substance in packages which comply with such standard; and

(b) The packages of such substance which do not meet such standard bear conspicuous labeling stating: "This package for households without young children"; except that the director may by regulation prescribe a substitute statement to the same effect for packaging too small to accommodate such labeling.

(2) In the case of a household substance which is subject to such a standard and which is dispensed pursuant to an order of a physician, dentist, or other licensed medical practitioner authorized to prescribe, such substance may be dispensed in noncomplying packages only when directed in such order or when requested by the purchaser.

(3) In the case of a household substance subject to such a standard which is packaged under subsection (1) of this section in a noncomplying package, if the director determines that such substance is not also being supplied by a manufacturer or packer in popular size packages which comply with such standard, he or she may, after giving the manufacturer or packer an opportunity to comply with the purposes of this chapter, by order require such substance to be packaged by such manufacturer or packer exclusively in special packaging complying with such standard if he or she finds, after opportunity for hearing, that such exclusive use of special packaging is necessary to accomplish the purposes of this chapter.

Sec. 1326. RCW 70.107.070 and 1987 c 330 s 749 are each amended to read as follows:

Any rule adopted under this chapter relating to the operation of motor vehicles on public highways shall be administered according to testing and inspection procedures adopted by rule by the state patrol. Violation of any motor vehicle performance standard adopted pursuant to this chapter shall be a

misdemeanor, enforced by such authorities and in such manner as violations of chapter 46.37 RCW. Violations subject to the provisions of this section shall be exempt from the provisions of RCW 70.107.050 (as recodified by this act).

Sec. 1327. RCW 70.116.050 and 1995 c 376 s 7 are each amended to read as follows:

(1) Each purveyor within the boundaries of a critical water supply service area shall develop a water system plan for the purveyor's future service area if such a plan has not already been developed: PROVIDED, That nonmunicipally owned public water systems are exempt from the planning requirements of this chapter, except for the establishment of service area boundaries if they have no plans for water service beyond their existing service area: PROVIDED FURTHER, That if the county legislative authority permits a change in development that will increase the demand for water service of such a system beyond the existing system's ability to provide minimum water service, the purveyor shall develop a water system plan in accordance with this section. The establishment of future service area boundaries shall be in accordance with RCW 70.116.070 (as recodified by this act).

(2) After the boundaries of a critical water supply service area have been established pursuant to RCW 70.116.040 (as recodified by this act), the committee established in RCW 70.116.040 (as recodified by this act) shall participate in the development of a coordinated water system plan for the designated area. Such a plan shall incorporate all water system plans developed pursuant to subsection (1) of this section. The plan shall provide for maximum integration and coordination of public water system facilities consistent with the protection and enhancement of the public health and well-being. Decisions of the committee shall be by majority vote of those present at meetings of the committee.

(3) Those portions of a critical water supply service area not yet served by a public water system shall have a coordinated water system plan developed by existing purveyors based upon permitted densities in county plans, ordinances, and/or growth policies for a minimum of five years beyond the date of establishment of the boundaries of the critical water supply service area.

(4) To insure that the plan incorporates the proper designs to protect public health, the secretary shall adopt regulations pursuant to chapter 34.05 RCW concerning the scope and content of coordinated water system plans, and shall ensure, as minimum requirements, that such plans:

(a) Are reviewed by the appropriate local governmental agency to insure that the plan is not inconsistent with the land use plans, shoreline master programs, and/or developmental policies of the general purpose local government or governments whose jurisdiction the water system plan affects.

(b) Recognize all water resource plans, water quality plans, and water pollution control plans which have been adopted by units of local, regional, and state government.

(c) Incorporate the fire protection standards developed pursuant to RCW 70.116.080 (as recodified by this act).

(d) Identify the future service area boundaries of the public water system or systems included in the plan within the critical water supply service area.

(e) Identify feasible emergency inter-ties between adjacent purveyors.

(f) Include satellite system management requirements consistent with RCW 70.116.134 (as recodified by this act).

(g) Include policies and procedures that generally address failing water systems for which counties may become responsible under RCW 43.70.195.

(5) If a "water general plan" for a critical water supply service area or portion thereof has been prepared pursuant to chapter 36.94 RCW and such a plan meets the requirements of subsections (1) and (4) of this section, such a plan shall constitute the coordinated water system plan for the applicable geographical area.

(6) The committee established in RCW 70.116.040 (as recodified by this act) may develop and utilize a mechanism for addressing disputes that arise in the development of the coordinated water system plan.

(7) Prior to the submission of a coordinated water system plan to the secretary for approval pursuant to RCW 70.116.060 (as recodified by this act), the legislative authorities of the counties in which the critical water supply service area is located shall hold a public hearing thereon and shall determine the plan's consistency with subsection (4) of this section. If within sixty days of receipt of the plan, the legislative authorities find any segment of a proposed service area of a purveyor's plan or any segment of the coordinated water system plan to be inconsistent with any current land use plans, shoreline master programs, and/or developmental policies of the general purpose local government or governments whose jurisdiction the water system plan affects, the secretary shall not approve that portion of the plan until the inconsistency is resolved between the local government and the purveyor. If no comments have been received from the legislative authorities within sixty days of receipt of the plan, the secretary may consider the plan for approval.

(8) Any county legislative authority may adopt an abbreviated plan for the provision of water supplies within its boundaries that includes provisions for service area boundaries, minimum design criteria, and review process. The elements of the abbreviated plan shall conform to the criteria established by the department under subsection (4) of this section and shall otherwise be consistent with other adopted land use and resource plans. The county legislative authority may, in lieu of the committee required under RCW 70.116.040 (as recodified by this act), and the procedures authorized in this section, utilize an advisory committee that is representative of the water utilities and local governments within its jurisdiction to assist in the preparation of the abbreviated plan, which may be adopted by resolution and submitted to the secretary for approval. Purveyors within the boundaries covered by the abbreviated plan need not develop a water system plan, except to the extent required by the secretary or state board of health under other authority. Any abbreviated plan adopted by a county legislative authority pursuant to this subsection shall be subject to the same provisions contained in RCW 70.116.060 (as recodified by this act) for coordinated water system plans that are approved by the secretary.

Sec. 1328. RCW 70.116.060 and 1995 c 376 s 2 are each amended to read as follows:

(1) A coordinated water system plan shall be submitted to the secretary for design approval within two years of the establishment of the boundaries of a critical water supply service area.

(2) The secretary shall review the coordinated water system plan and, to the extent the plan is consistent with the requirements of this chapter and regulations adopted hereunder, shall approve the plan, provided that the secretary shall not approve those portions of a coordinated water system plan that fail to meet the requirements for future service area boundaries until any boundary dispute is resolved as set forth in RCW 70.116.070 (as recodified by this act).

(3) Following the approval of a coordinated water system plan by the secretary:

(a) All purveyors constructing or proposing to construct public water system facilities within the area covered by the plan shall comply with the plan.

(b) No other purveyor shall establish a public water system within the area covered by the plan, unless the local legislative authority determines that existing purveyors are unable to provide the service in a timely and reasonable manner, pursuant to guidelines developed by the secretary. An existing purveyor is unable to provide the service in a timely manner if the water cannot be provided to an applicant for water within one hundred twenty days unless specified otherwise by the local legislative authority. If such a determination is made, the local legislative authority shall require the new public water system to be constructed in accordance with the construction standards and specifications embodied in the coordinated water system plan approved for the area. The service area boundaries in the coordinated plan for the affected utilities shall be revised to reflect the decision of the local legislative authority.

(4) The secretary may deny proposals to establish or to expand any public water system within a critical water supply service area for which there is not an approved coordinated water system plan at any time after two years of the establishment of the critical water supply service area: PROVIDED, That service connections shall not be considered expansions.

(5) The affected legislative authorities may develop and utilize a mechanism for addressing disputes that arise in the implementation of the coordinated water system plan after the plan has been approved by the secretary.

(6) After adoption of the initial coordinated water system plan, the local legislative authority or the secretary may determine that the plan should be updated or revised. The legislative authority may initiate an update at any time, but the secretary may initiate an update no more frequently than once every five years. The update may encompass all or a portion of the plan, with the scope of the update to be determined by the secretary and the legislative authority. The process for the update shall be the one prescribed in RCW 70.116.050 (as recodified by this act).

(7) The provisions of subsection (3) of this section shall not apply in any county for which a coordinated water system plan has not been approved under subsection (2) of this section.

(8) If the secretary initiates an update or revision of a coordinated water system plan, the state shall pay for the cost of updating or revising the plan.

Sec. 1329. RCW 70.116.070 and 1995 c 376 s 13 are each amended to read as follows:

(1) The proposed service area boundaries of public water systems within the critical water supply service area that are required to submit water system plans under this chapter shall be identified in the system's plan. The local legislative authority, or its planning department or other designee, shall review the proposed

boundaries to determine whether the proposed boundaries of one or more systems overlap. The boundaries determined by the local legislative authority not to overlap shall be incorporated into the coordinated water system plan. Where any overlap exists, the local legislative authority may attempt to resolve the conflict through procedures established under RCW 70.116.060(5) (as recodified by this act).

(2) Any final decision by a local legislative authority regarding overlapping service areas, or any unresolved disputes regarding service area boundaries, may be appealed or referred to the secretary in writing for resolution. After receipt of an appeal or referral, the secretary shall hold a public hearing thereon. The secretary shall provide notice of the hearing by certified mail to each purveyor involved in the dispute, to each county legislative authority having jurisdiction in the area and to the public. The secretary shall provide public notice pursuant to the provisions of chapter 65.16 RCW. Such notice shall be given at least twenty days prior to the hearing. The hearing may be continued from time to time and, at the termination thereof, the secretary may restrict the expansion of service of any purveyor within the area if the secretary finds such restriction is necessary to provide the greatest protection of the public health and well-being.

Sec. 1330. RCW 70.118.060 and 1994 c 281 s 3 are each amended to read as follows:

(1) After July 1, 1994, a person may not use, sell, or distribute a chemical additive to on-site sewage disposal systems.

(2) After January 1, 1996, no person shall use, sell, or distribute any on-site sewage disposal additive whose ingredients have not been approved by the department.

(3) Each manufacturer of an on-site sewage disposal system additive that is sold, advertised, or distributed in the state shall submit the following information to the department: (a) The name and address of the company; (b) the name of the product; (c) the complete product formulation; (d) the location where the product is manufactured; (e) the intended method of product application; and (f) a request that the product be reviewed.

(4) The department shall adopt rules providing the criteria, review, and decision-making procedures to be used in reviewing on-site sewage disposal additives for use, sale, or distribution in the state. The criteria shall be designed to determine whether the additive has an adverse effect on public health or water quality. The department may charge a fee sufficient to cover the costs of evaluating the additive, including the development of criteria and review procedures. The fee schedule shall be established by rule.

(5) The department shall issue a decision as to whether a product registered pursuant to subsection (3) of this section is approved or denied within forty-five days of receiving a complete evaluation as required pursuant to subsection (4) of this section.

(6) Manufacturers shall reregister their product as provided in subsection (3) of this section each time their product formulation changes. The department may require a new approval for products registered under this subsection prior to allowing the use, sale, or distribution within the state.

(7) The department may contract with private laboratories for the performance of any duties necessary to carry out the purpose of this section.

(8) The attorney general or appropriate city or county prosecuting attorney is authorized to bring an appropriate action to enjoin any violation of the prohibition on the sale or distribution of additives, or to enjoin any violation of the conditions in RCW 70.118.080 (as recodified by this act).

(9) The department is responsible for providing written notification to additives manufacturers of the provisions of this section and RCW 70.118.070 and 70.118.080 (as recodified by this act). The notification shall be provided no later than thirty days after April 1, 1994. Within thirty days of notification from the department, manufacturers shall provide the same notification to their distributors, wholesalers, and retail customers.

Sec. 1331. RCW 70.118.070 and 1994 c 281 s 4 are each amended to read as follows:

The department shall hold confidential any information obtained pursuant to RCW 70.118.060 (as recodified by this act) when shown by any manufacturer that such information, if made public, would divulge confidential business information, methods, or processes entitled to protection as trade secrets of the manufacturer.

Sec. 1332. RCW 70.118.080 and 1994 c 281 s 5 are each amended to read as follows:

(1) Each manufacturer of a certified and approved additive product advertised, sold, or distributed in the state shall:

(a) Make no claims relating to the elimination of the need for septic tank pumping or proper septic tank maintenance;

(b) List the components of additive products on the product label, along with information regarding instructions for use and precautions;

(c) Make no false statements, design, or graphic representation relative to an additive product that is inconsistent with RCW 70.118.060, 70.118.070 (as recodified by this act), or this section; and

(d) Make no claims, either direct or implied, about the performance of the product based on state approval of its ingredients.

(2) A violation of this section is an unfair act or practice in violation of the consumer protection act, chapter 19.86 RCW.

Sec. 1333. RCW 70.118.130 and 2007 c 343 s 9 are each amended to read as follows:

A local health officer who is responsible for administering and enforcing regulations regarding on-site sewage disposal systems is authorized to issue civil penalties for violations of those regulations under the same limitations and requirements imposed on the department under RCW 70.118B.050 (as recodified by this act), except that the amount of a penalty shall not exceed one thousand dollars per day for every violation, and judgments shall be entered in the name of the local health jurisdiction and penalties shall be placed into the general fund or funds of the entity or entities operating the local health jurisdiction.

Sec. 1334. RCW 70.118A.020 and 2006 c 18 s 2 are each amended to read as follows:

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

(1) "Board" means the state board of health.

(2) "Department" means the department of health.

(3) "Failing" means a condition of an existing on-site sewage disposal system or component that threatens the public health by inadequately treating sewage, or by creating a potential for direct or indirect contact between sewage and the public. Examples of a failing on-site sewage disposal system include:

(a) Sewage on the surface of the ground;

(b) Sewage backing up into a structure caused by slow soil absorption of septic tank effluent;

(c) Sewage leaking from a sewage tank or collection system;

(d) Cesspools or seepage pits where evidence of groundwater or surface water quality degradation exists;

(e) Inadequately treated effluent contaminating groundwater or surface water; or

(f) Noncompliance with standards stipulated on the permit.

(4) "Local health officer" or "local health jurisdiction" means the local health officers and local health jurisdictions in the following counties bordering Puget Sound: Clallam, Island, Kitsap, Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-Pierce, Thurston, and Whatcom.

(5) "Marine recovery area" means an area of definite boundaries where the local health officer, or the department in consultation with the health officer, determines that additional requirements for existing on-site sewage disposal systems may be necessary to reduce potential failing systems or minimize negative impacts of on-site sewage disposal systems.

(6) "Marine recovery area on-site strategy" or "on-site strategy" means a local health jurisdiction's on-site sewage disposal system strategy required under RCW 70.118A.050 (as recodified by this act). This strategy is a component of the on-site program management plan required under RCW 70.118A.030 (as recodified by this act).

(7) "On-site sewage disposal system" means an integrated system of components, located on or nearby the property it serves, that conveys, stores, treats, or provides subsurface soil treatment and dispersal of sewage. It consists of a collection system, a treatment component or treatment sequence, and a soil dispersal component. An on-site sewage disposal system also refers to a holding tank sewage system or other system that does not have a soil dispersal component. For purposes of this chapter, the term "on-site sewage disposal system" does not include any system regulated by a water quality discharge permit issued under chapter 90.48 RCW.

(8) "Unknown system" means an on-site sewage disposal system that was installed without the knowledge or approval of the local health jurisdiction, including those that were installed before such approval was required.

Sec. 1335. RCW 70.118A.040 and 2006 c 18 s 4 are each amended to read as follows:

(1) In developing on-site program management plans required under RCW 70.118A.030 (as recodified by this act), the local health officer shall propose a marine recovery area for those land areas where existing on-site sewage disposal systems are a significant factor contributing to concerns associated with:

(a) Shellfish growing areas that have been threatened or downgraded by the department under chapter 69.30 RCW;

(b) Marine waters that are listed by the department of ecology under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1251 et seq.) for low-dissolved oxygen or fecal coliform; or

(c) Marine waters where nitrogen has been identified as a contaminant of concern by the local health officer.

(2) In determining the boundaries for a marine recovery area, the local health officer shall assess and include those land areas where existing on-site sewage disposal systems may affect water quality in the marine recovery area.

(3) Determinations made by the local health officer under this section, including identification of nitrogen as a contaminant of concern, will be based on published guidance developed by the department. The guidance must be designed to ensure the proper use of available scientific and technical data. The health officer shall document the basis for these determinations when plans are submitted to the department.

(4) After July 1, 2007, the local health officer may designate additional marine recovery areas meeting the criteria of this section, according to new information. Where the department recommends the designation of a marine recovery area or expansion of a designated marine recovery area, the local health officer shall notify the department of its decision concerning the recommendation within ninety days of receipt of the recommendation.

Sec. 1336. RCW 70.118A.050 and 2006 c 18 s 5 are each amended to read as follows:

(1) The local health officer of a local health jurisdiction where a marine recovery area has been proposed under RCW 70.118A.040 (as recodified by this act) shall develop and approve a marine recovery area on-site strategy that includes designation of marine recovery areas to guide the local health jurisdiction in developing and managing all existing on-site sewage disposal systems within marine recovery areas within its jurisdiction. The on-site strategy must be a component of the program management plan required under RCW 70.118A.030 (as recodified by this act). The department may grant an extension of twelve months where a local health jurisdiction has demonstrated substantial progress toward completing its on-site strategy.

(2) An on-site strategy for a marine recovery area must specify how the local health jurisdiction will by July 1, 2012, and thereafter, find:

(a) Existing failing systems and ensure that system owners make necessary repairs; and

(b) Unknown systems and ensure that they are inspected as required to ensure that they are functioning properly, and repaired, if necessary.

Sec. 1337. RCW 70.118A.070 and 2006 c 18 s 7 are each amended to read as follows:

(1) The on-site program management plans of local health jurisdictions required under RCW 70.118A.030 (as recodified by this act) must be submitted to the department by July 1, 2007, and be reviewed to determine if they contain all necessary elements. The department shall provide in writing to the local board of health its review of the completeness of the plan. The board may adopt additional criteria by rule for approving plans.

(2) In reviewing the on-site strategy component of the plan, the department shall ensure that all required elements, including designation of any marine recovery area, have been addressed.

(3) Within thirty days of receiving an on-site strategy, the department shall either approve the on-site strategy or provide in writing the reasons for not approving the strategy and recommend changes. If the department does not approve the on-site strategy, the local health officer must amend and resubmit the plan to the department for approval.

(4) Upon receipt of department approval or after thirty days without notification, whichever comes first, the local health officer shall implement the on-site strategy.

(5) If the department denies approval of an on-site strategy, the local health officer may appeal the denial to the board. The board must make a final determination concerning the denial.

(6) The department shall assist local health jurisdictions in:

(a) Developing written on-site program management plans required by RCW 70.118A.030 (as recodified by this act);

(b) Identifying reasonable methods for finding unknown systems; and

(c) Developing or enhancing electronic data systems that will enable each local health jurisdiction to actively manage all on-site sewage disposal systems within their jurisdictions, with priority given to those on-site sewage disposal systems that are located in or which could affect designated marine recovery areas.

Sec. 1338. RCW 70.118A.080 and 2006 c 18 s 8 are each amended to read as follows:

(1) The department shall enter into a contract with each local health jurisdiction subject to the requirements of this chapter to implement plans developed under this chapter, and to develop or enhance electronic data systems required by this chapter. The contract must include state funding assistance to the local health jurisdiction from funds appropriated to the department for this purpose.

(2) The contract must require, at a minimum, that within a marine recovery area, the local health jurisdiction:

(a) Show progressive improvement in finding failing systems;

(b) Show progressive improvement in working with on-site sewage disposal system owners to make needed system repairs;

(c) Is actively taking steps to find previously unknown systems and ensuring that they are inspected as required and repaired if necessary;

(d) Show progressive improvement in the percentage of on-site sewage disposal systems that are included in an electronic data system; and

(e) Of those on-site sewage disposal systems in the electronic data system, show progressive improvement in the percentage that have had required inspections.

(3) The contract must also include provisions for state assistance in updating the plan. Beginning July 1, 2012, the contract may adopt revised compliance dates, including those in RCW 70.118A.050 (as recodified by this act), where the local health jurisdiction has demonstrated substantial progress in updating the on-site strategy.

(4) The department shall convene a work group for the purpose of making recommendations to the appropriate committees of the legislature for the development of certification or licensing of maintenance specialists. The work group shall make its recommendation with consideration given to the 1998 report to the legislature entitled "On-Site Wastewater Certification Work Group" as it pertains to maintenance specialists. The work group may give priority to appropriate levels of certification or licensure of maintenance specialists who work in the Puget Sound basin.

Sec. 1339. RCW 70.118A.090 and 2006 c 18 s 9 are each amended to read as follows:

The provisions of this chapter are supplemental to all other authorities governing on-site sewage disposal systems, including chapter 70.118 RCW (as recodified by this act) and rules adopted under that chapter.

Sec. 1340. RCW 70.118B.005 and 2007 c 343 s 1 are each amended to read as follows:

The legislature finds that:

(1) Protection of the environment and public health requires properly designed, operated, and maintained on-site sewage systems. Failure of those systems can pose certain health and environmental hazards if sewage leaks above ground or if untreated sewage reaches surface or groundwater.

(2) Chapter 70.118A RCW (as recodified by this act) provides a framework for ongoing management of on-site sewage systems located in marine recovery areas and regulated by local health jurisdictions under state board of health rules. This chapter will provide a framework for comprehensive management of large on-site sewage systems statewide.

(3) The primary purpose of this chapter is to establish, in a single state agency, comprehensive regulation of the design, operation, and maintenance of large on-site sewage systems, and their operators, that provides both public health and environmental protection. To accomplish these purposes, this chapter provides for:

(a) The permitting and continuing oversight of large on-site sewage systems;

(b) The establishment by the department of standards and rules for the siting, design, construction, installation, operation, maintenance, and repair of large on-site sewage systems; and

(c) The enforcement by the department of the standards and rules established under this chapter.

Sec. 1341. RCW 70.118B.020 and 2007 c 343 s 3 are each amended to read as follows:

(1) For the protection of human health and the environment the department shall:

(a) Establish and provide for the comprehensive regulation of large on-site sewage systems including, but not limited to, system siting, design, construction, installation, operation, maintenance, and repair;

(b) Control and prevent pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state of Washington, except to the extent authorized by permits issued under this chapter;

(c) Issue annual operating permits for large on-site sewage systems based on the system's ability to function properly in compliance with the applicable comprehensive regulatory requirements; and

(d) Enforce the large on-site sewage system requirements.

(2) Large on-site sewage systems permitted by the department may not be used for treatment and disposal of industrial wastewater or combined sanitary sewer and stormwater systems.

(3) The work group convened under RCW 70.118A.080(4) (as recodified by this act) to make recommendations to the appropriate committees of the legislature for the development of certification or licensing of maintenance specialists shall include recommendations for the development of certification or licensing of large on-site (~~(sewage))~~ sewage system operators.

Sec. 1342. RCW 70.118B.030 and 2007 c 343 s 4 are each amended to read as follows:

(1) A person may not install or operate a large on-site sewage system without an operating permit as provided in this chapter after July 1, 2009. The owner of the system is responsible for obtaining a permit.

(2) The department shall issue operating permits in accordance with the rules adopted under RCW 70.118B.040 (as recodified by this act).

(3) The department shall ensure the system meets all applicable siting, design, construction, and installation requirements prior to issuing an initial operating permit. Prior to renewing an operating permit, the department may review the performance of the system to determine compliance with rules and any permit conditions.

(4) At the time of initial permit application or at the time of permit renewal the department shall impose those permit conditions, requirements for system improvements, and compliance schedules as it determines are reasonable and necessary to ensure that the system will be operated and maintained properly. Each application must be accompanied by a fee as established in rules adopted by the department.

(5) Operating permits shall be issued for a term of one year, and shall be renewed annually, unless the operator fails to apply for a new permit or the department finds good cause to deny the application for renewal.

(6) Each permit may be issued only for the site and owner named in the application. Permits are not transferable or assignable except with the written approval of the department.

(7) The department may deny an application for a permit or modify, suspend, or revoke a permit in any case in which it finds that the permit was obtained by fraud or there is or has been a failure, refusal, or inability to comply with the requirements of this chapter or the standards or rules adopted under this chapter. RCW 43.70.115 governs notice of denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding to the permit applicant or permittee.

(8) For systems with design flows of more than fourteen thousand five hundred gallons per day, the department shall adopt rules to ensure adequate public notice and opportunity for review and comment on initial large on-site sewage system permit applications and subsequent permit applications to increase the volume of waste disposal or change effluent characteristics. The rules must include provisions for notice of final decisions. Methods for

providing notice may include ((~~electronic~~)) email, posting on the department's internet site, publication in a local newspaper, press releases, mailings, or other means of notification the department determines appropriate.

(9) A person aggrieved by the issuance of an initial permit, or by the issuance of a subsequent permit to increase the volume of waste disposal or to change effluent characteristics, for systems with design flows of more than fourteen thousand five hundred gallons per day, has the right to an adjudicative proceeding. The application for an adjudicative proceeding must be in writing, state the basis for contesting the action, include a copy of the decision, be served on and received by the department within twenty-eight days of receipt of notice of the final decision, and be served in a manner that shows proof of receipt. An adjudicative proceeding conducted under this subsection is governed by chapter 34.05 RCW.

(10) Any permit issued by the department of ecology for a large on-site sewage system under chapter 90.48 RCW is valid until it first expires after July 22, 2007. The system owner shall apply for an operating permit at least one hundred twenty days prior to expiration of the department of ecology permit.

(11) Systems required to meet operator certification requirements under chapter 70.95B RCW (as recodified by this act) must continue to meet those requirements as a condition of the department operating permit.

Sec. 1343. RCW 70.119.030 and 2009 c 221 s 2 are each amended to read as follows:

(1) A public water system shall have a certified operator if:

(a) It is a group A water system; or

(b) It is a public water system using a surface water source or a groundwater source under the direct influence of surface water.

(2) The certified operators shall be in charge of the technical direction of a water system's operation, or an operating shift of such a system, or a major segment of a system necessary for monitoring or improving the quality of water. The operator shall be certified as provided in RCW 70.119.050 (as recodified by this act).

(3) A certified operator may provide required services to more than one system or to a group of systems. The amount of time that a certified operator shall be required to be present at any given system shall be based upon the time required to properly operate and maintain the public water system as designed and constructed in accordance with RCW 43.20.050. The employing or appointing officials shall designate the position or positions requiring mandatory certification within their individual systems and shall assure that such certified operators are responsible for the system's technical operation.

(4) The department shall, in establishing by rule or otherwise the requirements for public water systems with fewer than one hundred connections, phase in such requirements in order to assure that (a) an adequate number of certified operators are available to serve the additional systems, (b) the systems have adequate notice and time to plan for securing the services of a certified operator, (c) the department has the additional data and other administrative capacity, (d) adequate training is available to certify additional operators as necessary, and (e) any additional requirements under federal law are satisfied. The department shall require certified operators for all group A systems as necessary to conform to federal law or implementing rules or guidelines. Unless

necessary to conform to federal law, rules, or guidelines, the department shall not require a certified operator for a system with fewer than one hundred connections unless that system is determined by the department to be in significant noncompliance with operational, monitoring, or water quality standards that would put the public health at risk, as defined by the department by rule, or has, or is required to have, water treatment facilities other than simple disinfection.

Sec. 1344. RCW 70.119.050 and 1995 c 269 s 2905 are each amended to read as follows:

The secretary shall adopt such rules and regulations as may be necessary for the administration of this chapter and shall enforce such rules and regulations. The rules and regulations shall include provisions establishing minimum qualifications and procedures for the certification of operators, criteria for determining the kind and nature of continuing educational requirements for renewal of certification under RCW 70.119.100(2) (as recodified by this act), and provisions for classifying water purification plants and distribution systems.

Rules and regulations adopted under the provisions of this section shall be adopted in accordance with the provisions of chapter 34.05 RCW.

Sec. 1345. RCW 70.119.060 and 1991 c 305 s 4 are each amended to read as follows:

The secretary shall further categorize all public water systems with regard to the size, type, source of water, and other relevant physical conditions affecting purification plants and distribution systems to assist in identifying the skills, knowledge and experience required for the certification of operators for each category of such systems, to assure the protection of the public health and conservation and protection of the state's water resources as required under RCW 70.119.010 (as recodified by this act), and to implement the provisions of the state safe drinking water act in chapter 70.119A RCW (as recodified by this act). In categorizing all public water systems for the purpose of implementing these provisions of state law, the secretary shall take into consideration economic impacts as well as the degree and nature of any public health risk.

Sec. 1346. RCW 70.119.070 and 1983 c 292 s 5 are each amended to read as follows:

The secretary is authorized, when taking action pursuant to RCW 70.119.050 and 70.119.060 (as recodified by this act), to consider generally applicable criteria and guidelines developed by a nationally recognized association of certification authorities and commonly accepted national guidelines and standards.

Sec. 1347. RCW 70.119.090 and 1991 c 305 s 5 are each amended to read as follows:

Certificates shall be issued without examination under the following conditions:

(1) Certificates shall be issued without application fee to operators who, on January 1, 1978, hold certificates of competency attained under the voluntary certification program sponsored jointly by the state department of social and health services, health services division, and the Pacific Northwest section of the American water works association.

(2) Certification shall be issued to persons certified by a governing body or owner of a public water system to have been the operators of a purification plant or distribution system on January 1, 1978, but only to those who are required to be certified under RCW 70.119.030(1) (as recodified by this act). A certificate so issued shall be valid for operating any plant or system of the same classification and same type of water source.

(3) A nonrenewable certificate, temporary in nature, may be issued to an operator for a period not to exceed twelve months to fill a vacated position required to have a certified operator. Only one such certificate may be issued subsequent to each instance of vacation of any such position.

Sec. 1348. RCW 70.119.100 and 1993 c 306 s 1 are each amended to read as follows:

The issuance and renewal of a certificate shall be subject to the following conditions:

(1) Except as provided in RCW 70.119.090 (as recodified by this act), a certificate shall be issued if the operator has satisfactorily passed a written examination, has paid the department an application fee as established by the department under RCW 70.119.160 (as recodified by this act), and has met the requirements specified in the rules and regulations as authorized by this chapter.

(2) Every certificate shall be renewed annually upon the payment of a fee as established by the department under RCW 70.119.160 (as recodified by this act) and satisfactory evidence is presented to the secretary that the operator has fulfilled the continuing education requirements as prescribed by rule of the department.

(3) The secretary shall notify operators who fail to renew their certificates before the end of the year that their certificates are temporarily valid for two months following the end of the certificate year. Certificates not renewed during the two month period shall be invalid and the secretary shall so notify the holders of such certificates.

(4) An operator who has failed to renew a certificate pursuant to the provisions of this section, may reapply for certification and the secretary may require the operator to meet the requirements established for new applicants.

Sec. 1349. RCW 70.119.120 and 1993 c 306 s 2 are each amended to read as follows:

To carry out the provisions and purposes of this chapter, the secretary is authorized and empowered to:

(1) Receive financial and technical assistance from the federal government and other public or private agencies.

(2) Participate in related programs of the federal government, other state, interstate agencies, or other public or private agencies or organizations.

(3) Assess fees determined pursuant to RCW 70.119.160 (as recodified by this act) on public water systems to support the waterworks operator certification program.

Sec. 1350. RCW 70.119.130 and 2009 c 221 s 6 are each amended to read as follows:

Any person, including any operator or any firm, association, corporation, municipal corporation, or other governmental subdivision or agency who, after thirty days' written notice, operates a public water system which is not in

compliance with RCW 70.119.030(1) (as recodified by this act), shall be guilty of a misdemeanor. Each month of such operation out of compliance with RCW 70.119.030(1) (as recodified by this act) shall constitute a separate offense. Upon conviction, violators shall be fined an amount not exceeding one hundred dollars for each offense. It shall be the duty of the prosecuting attorney or the attorney general, as appropriate, to secure injunctions of continuing violations of any provisions of this chapter or the rules and regulations adopted under this chapter.

Sec. 1351. RCW 70.119.150 and 1993 c 306 s 3 are each amended to read as follows:

The waterworks operator certification account is created in the general fund of the state treasury. All fees paid pursuant to RCW 70.119.100 (as recodified by this act), 70.119.120(3) (as recodified by this act), and any other receipts realized in the administration of this chapter shall be deposited in the waterworks operator certification account. Moneys in the account shall be spent only after appropriation. Moneys from the account shall be used by the department of health to carry out the purposes of the waterworks operator certification program.

Sec. 1352. RCW 70.119.170 and 2009 c 221 s 3 are each amended to read as follows:

(1) Backflow assembly testers and cross-connection control specialists must hold a valid certificate and must be certified as provided by rule as adopted under the authority of RCW 70.119.050 (as recodified by this act).

(2) Backflow assembly testers who maintain or repair backflow assemblies, devices, or air gaps inside a building are subject to certification under chapter 18.106 RCW.

Sec. 1353. RCW 70.119A.020 and 2009 c 495 s 3 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the following definitions apply throughout this chapter:

(1) "Area-wide waivers" means a waiver granted by the department as a result of a geographically based testing program meeting required provisions of the federal safe drinking water act.

(2) "Department" means the department of health.

(3) "Federal safe drinking water act" means the federal safe drinking water act, 42 U.S.C. Sec. 300f et seq., as now in effect or hereafter amended.

(4) "Group A public water system" means a public water system with fifteen or more service connections, regardless of the number of people; or a system serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections; or a system serving one thousand or more people for two or more consecutive days.

(5) "Group B public water system" means a public water system that does not meet the definition of a group A public water system.

(6) "Local board of health" means the city, town, county, or district board of health.

(7) "Local health jurisdiction" means an entity created under chapter 70.05, 70.08, or 70.46 RCW which provides public health services to persons within the area.

(8) "Local health officer" means the legally qualified physician who has been appointed as the health officer for the city, town, county, or district public health department.

(9) "Order" means a written direction to comply with a provision of the regulations adopted under RCW 43.20.050(2) (a) and (b) or 70.119.050 (as recodified by this act) or to take an action or a series of actions to comply with the regulations.

(10) "Person" includes, but is not limited to, natural persons, municipal corporations, governmental agencies, firms, companies, mutual or cooperative associations, institutions, and partnerships. It also means the authorized agents of any such entities.

(11) "Public health emergency" means a declaration by an authorized health official of a situation in which either illness, or exposure known to cause illness, is occurring or is imminent.

(12) "Public water system" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing water for human consumption through pipes or other constructed conveyances, including any collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with the system; and collection or pretreatment storage facilities not under control of the purveyor but primarily used in connection with the system, including:

(a) Any collection, treatment, storage, and distribution facilities under control of the purveyor and used primarily in connection with such system; and

(b) Any collection or pretreatment storage facilities not under control of the purveyor which are primarily used in connection with such system.

(13) "Purveyor" means any agency or subdivision of the state or any municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity, that owns or operates a public water system. It also means the authorized agents of any such entities.

(14) "Regulations" means rules adopted to carry out the purposes of this chapter.

(15) "Secretary" means the secretary of the department of health.

(16) "State board of health" is the board created by RCW 43.20.030.

Sec. 1354. RCW 70.119A.030 and 1993 c 305 s 1 are each amended to read as follows:

(1) The secretary or his or her designee or the local health officer may declare a public health emergency. As limited by RCW 70.119A.040 (as recodified by this act), the department may impose penalties for violations of laws or regulations that are determined to be a public health emergency.

(2) As limited by RCW 70.119A.040 (as recodified by this act), the department may impose penalties for violation of laws or rules regulating public water systems and administered by the department of health.

Sec. 1355. RCW 70.119A.050 and 2009 c 495 s 4 are each amended to read as follows:

Each local board of health that is enforcing the regulations regarding public water systems is authorized to impose and collect civil penalties for violations within the area of its responsibility under the same limitations and requirements

imposed upon the department by RCW 70.119A.030 and 70.119A.040 (as recodified by this act), except that judgment shall be entered in the name of the local board and penalties shall be placed into the general fund of the county, city, or town operating the local board of health.

Sec. 1356. RCW 70.119A.060 and 2009 c 495 s 5 are each amended to read as follows:

(1) To assure safe and reliable public drinking water and to protect the public health:

(a) Public water systems shall comply with all applicable federal, state, and local rules; and

(b) Group A public water systems shall:

(i) Protect the water sources used for drinking water;

(ii) Provide treatment adequate to assure that the public health is protected;

(iii) Provide and effectively operate and maintain public water system facilities;

(iv) Plan for future growth and assure the availability of safe and reliable drinking water;

(v) Provide the department with the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system, including any changes to this information, and provide to users the name and twenty-four hour telephone number of an emergency contact person; and

(vi) Take whatever investigative or corrective action is necessary to assure that a safe and reliable drinking water supply is continuously available to users.

(2) No new public water system may be approved or created unless: (a) It is owned or operated by a satellite system management agency established under RCW 70.116.134 (as recodified by this act) and the satellite system management system complies with financial viability requirements of the department; or (b) a satellite management system is not available and it is determined that the new system has sufficient management and financial resources to provide safe and reliable service. The approval of any new system that is not owned by a satellite system management agency shall be conditioned upon future management or ownership by a satellite system management agency, if such management or ownership can be made with reasonable economy and efficiency, or upon periodic review of the system's operational history to determine its ability to meet the department's financial viability and other operating requirements. The department and local health jurisdictions shall enforce this requirement under authority provided under this chapter, chapter 70.116 (as recodified by this act), or 70.05 RCW, or other authority governing the approval of new water systems by the department or a local jurisdiction.

(3) The department and local health jurisdictions shall carry out the rules and regulations of the state board of health adopted pursuant to RCW 43.20.050(2) (a) and (b) and other rules adopted by the department relating to public water systems.

Sec. 1357. RCW 70.119A.110 and 2011 c 102 s 1 are each amended to read as follows:

(1) No person may operate a group A public water system unless the person first submits an application to the department and receives an operating permit

as provided in this section. A new application must be submitted upon any change in ownership of the system.

(2) The department may require that each application include the information that is reasonable and necessary to determine that the system complies with applicable standards and requirements of the federal safe drinking water act, state law, and rules adopted by the department or by the state board of health.

(3) Following its review of the application, its supporting material, and any information received by the department in its investigation of the application, the department shall issue or deny the operating permit. The department shall act on initial permit applications as expeditiously as possible, and shall in all cases either grant or deny the application within one hundred twenty days of receipt of the application or of any supplemental information required to complete the application. The applicant for a permit shall be entitled to file an appeal in accordance with chapter 34.05 RCW if the department denies the initial or subsequent applications or imposes conditions or requirements upon the operator. Any operator of a public water system that requests a hearing may continue to operate the system until a decision is issued after the hearing.

(4) At the time of initial permit application or at the time of permit renewal the department may impose such permit conditions, requirements for system improvements, and compliance schedules as it determines are reasonable and necessary to ensure that the system will provide a safe and reliable water supply to its users.

(5) Operating permits shall be issued for a term of one year, and shall be renewed annually, unless the operator fails to apply for a new permit or the department finds good cause to deny the application for renewal.

(6) Each application shall be accompanied by an annual fee.

(7) The department shall adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this section.

(8) The department shall establish by rule categories of annual operating permit fees based on system size, complexity, and number of service connections. Fees charged must be sufficient to cover, but may not exceed, the costs to the department of administering a program for safe and reliable drinking water. The department shall use operating permit fees to monitor and enforce compliance by group A public water systems with state and federal laws that govern planning, water use efficiency, design, construction, operation, maintenance, financing, management, and emergency response.

(9) The annual per-connection fee may not exceed one dollar and fifty cents. The department shall phase-in implementation of any annual fee increase greater than ten percent, and shall establish the schedule for implementation by rule. Rules established by the department prior to 2020 must limit the annual operating permit fee for any public water system to no greater than one hundred thousand dollars.

(10) The department shall notify existing public water systems of the requirements of RCW 70.119A.030, 70.119A.060 (as recodified by this act), and this section at least one hundred twenty days prior to the date that an application for a permit is required pursuant to RCW 70.119A.030, 70.119A.060 (as recodified by this act), and this section.

(11) The department shall issue one operating permit to any approved satellite system management agency. Operating permit fees for approved satellite system management agencies must be established by the department by rule. Rules established by the department must set a single fee based on the total number of connections for all group A public water systems owned by a satellite management agency.

(12) For purposes of this section, "group A public water system" and "system" mean those water systems with fifteen or more service connections, regardless of the number of people; or a system serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections.

Sec. 1358. RCW 70.119A.120 and 1991 c 304 s 6 are each amended to read as follows:

The safe drinking water account is created in the general fund of the state treasury. All receipts from the operating permit fees required to be paid under RCW 70.119A.110 (as recodified by this act) shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department of health to carry out the purposes of chapter 304, Laws of 1991 and to carry out contracts with local governments in accordance with this chapter.

Sec. 1359. RCW 70.119A.190 and 2008 c 214 s 2 are each amended to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the department shall provide financial assistance through a water system acquisition and rehabilitation program, hereby created. The program shall be jointly administered with the public works board and the department of (~~community, trade, and economic development~~) commerce. The agencies shall adopt guidelines for the program using as a model the procedures and criteria of the drinking water revolving loan program authorized under RCW 70.119A.170 (as recodified by this act). All financing provided through the program must be in the form of grants that 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 any fiscal year.

Sec. 1360. RCW 70.120.010 and 2011 c 171 s 108 are each amended to read as follows:

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

(1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology.

(3) "Fleet" means a group of fifteen or more motor vehicles registered in the same name and whose owner has been assigned a fleet identifier code by the department of licensing.

(4) "Motor vehicle" means any self-propelled vehicle required to be licensed pursuant to chapter 46.16A RCW.

(5) "Motor vehicle dealer" means a motor vehicle dealer, as defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW.

(6) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision of the state, municipality, or governmental agency.

(7) The terms "air contaminant," "air pollution," "air quality standard," "ambient air," "emission," and "emission standard" have the meanings given them in RCW 70.94.030 (as recodified by this act).

Sec. 1361. RCW 70.120.070 and 1998 c 342 s 2 are each amended to read as follows:

(1) Any person:

(a) Whose motor vehicle is tested pursuant to this chapter and fails to comply with the emission standards established for the vehicle; and

(b) Who, following such a test, expends more than one hundred dollars on a 1980 or earlier model year motor vehicle or expends more than one hundred fifty dollars on a 1981 or later model year motor vehicle for repairs solely devoted to meeting the emission standards and that are performed by a certified emission specialist authorized by RCW 70.120.020(2)(a) (as recodified by this act); and

(c) Whose vehicle fails a retest, may be issued a certificate of acceptance if (i) the vehicle has been in use for more than five years or fifty thousand miles, and (ii) any component of the vehicle installed by the manufacturer for the purpose of reducing emissions, or its appropriate replacement, is installed and operative.

To receive the certificate, the person must document compliance with (b) and (c) of this subsection to the satisfaction of the department.

Should any provision of (b) of this subsection be disapproved by the administrator of the United States environmental protection agency, all vehicles shall be required to expend at least four hundred fifty dollars to qualify for a certificate of acceptance.

(2) Persons who fail the initial tests shall be provided with:

(a) Information regarding the availability of federal warranties and certified emission specialists;

(b) Information on the availability and procedure for acquiring license trip-permits;

(c) Information on the availability and procedure for receiving a certificate of acceptance; and

(d) The local phone number of the department's local vehicle specialist.

Sec. 1362. RCW 70.120.080 and 1991 c 199 s 205 are each amended to read as follows:

The director may authorize an owner or lessee of a fleet of motor vehicles, or the owner's or lessee's agent, to inspect the vehicles in the fleet and issue certificates of compliance for the vehicles in the fleet if the director determines that: (1) The director's inspection procedures will be complied with; and (2) certificates will be issued only to vehicles in the fleet that meet emission and equipment standards adopted under RCW 70.120.150 (as recodified by this act) and only when appropriate.

In addition, the director may authorize an owner or lessee of one or more diesel motor vehicles with a gross vehicle weight rating in excess of eight thousand five hundred pounds, or the owner's or lessee's agent, to inspect the vehicles and issue certificates of compliance for the vehicles. The inspections

shall be conducted in compliance with inspection procedures adopted by the department and certificates of compliance shall only be issued to vehicles that meet emission and equipment standards adopted under RCW 70.120.150 (as recodified by this act).

The director shall establish by rule the fee for fleet or diesel inspections provided for in this section. The fee shall be set at an amount necessary to offset the department's cost to administer the fleet and diesel inspection program authorized by this section.

Owners, leaseholders, or their agents conducting inspections under this section shall pay only the fee established in this section and not be subject to fees under RCW 70.120.170(4) (as recodified by this act).

Sec. 1363. RCW 70.120.120 and 1991 c 199 s 206 are each amended to read as follows:

The director shall adopt rules implementing and enforcing this chapter in accordance with chapter 34.05 RCW. The department shall take into account when considering proposed modifications of emission contributing boundaries, as provided for in RCW 70.120.150(6) (as recodified by this act), alternative transportation control and motor vehicle emission reduction measures that are required by local municipal corporations for the purpose of satisfying federal emission guidelines.

Sec. 1364. RCW 70.120.130 and 1979 ex.s. c 163 s 14 are each amended to read as follows:

The authority granted by this chapter to the director and the department for controlling vehicle emissions is supplementary to the department's authority to control air pollution pursuant to chapter 70.94 RCW (as recodified by this act).

Sec. 1365. RCW 70.120.190 and 1991 c 199 s 210 are each amended to read as follows:

(1) Motor vehicle dealers selling a used vehicle not under a new vehicle warranty shall include a notice in each vehicle purchase order form that reads as follows: "The owner of a vehicle may be required to spend up to (a dollar amount established under RCW 70.120.070 (as recodified by this act)) for repairs if the vehicle does not meet the vehicle emission standards under this chapter. Unless expressly warranted by the motor vehicle dealer, the dealer is not warranting that this vehicle will pass any emission tests required by federal or state law."

(2) The signature of the purchaser on the notice required under subsection (1) of this section shall constitute a valid disclaimer of any implied warranty by the dealer as to a vehicle's compliance with any emission standards.

(3) The disclosure requirement of subsection (1) of this section applies to all motor vehicle dealers located in counties where state emission inspections are required.

Sec. 1366. RCW 70.120A.010 and 2010 c 76 s 1 are each amended to read as follows:

(1) Pursuant to the federal clean air act, the legislature adopts the California motor vehicle emission standards in Title 13 of the California Code of Regulations, effective January 1, 2005, except as provided in this chapter. The department of ecology shall adopt rules to implement the 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 (as recodified by this act).

(3) The provisions of this chapter do not apply with respect to the use by a resident of this state of a motor vehicle acquired and used while the resident is a member of the armed services and is stationed outside this state pursuant to military orders.

Sec. 1367. RCW 70.120A.020 and 2005 c 295 s 3 are each amended to read as follows:

(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 RCW 70.120A.010 (as recodified by 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.

Sec. 1368. RCW 70.121.020 and 1991 c 3 s 372 are each amended to read as follows:

Unless the context clearly requires a different meaning, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of health.

(2) "Secretary" means the secretary of health.

(3) "Site" means the restricted area as defined by the United States nuclear regulatory commission.

(4) "Tailings" means the residue remaining after extraction of uranium or thorium from the ore whether or not the residue is left in piles, but shall not include ore bodies nor ore stock piles.

(5) "License" means a radioactive materials license issued under chapter 70.98 RCW (as recodified by this act) and the rules adopted under chapter 70.98 RCW (as recodified by this act).

(6) "Termination of license" means the cancellation of the license after permanent cessation of operations. Temporary interruptions or suspensions of production due to economic or other conditions are not a permanent cessation of operations.

(7) "Milling" means grinding, cutting, working, or concentrating ore which has been extracted from the earth by mechanical (conventional) or chemical (in situ) processes.

(8) "Obligor-licensee" means any person who obtains a license to operate a uranium or thorium mill in the state of Washington or any person who owns the property on which the mill operates and who owes money to the state for the licensing fee, for reclamation of the site, for perpetual surveillance and maintenance of the site, or for any other obligation owed the state under this chapter.

(9) "Statement of claim" means the document recorded or filed pursuant to this chapter, which names an obligor-licensee, names the state as obligee, describes the obligation owed to the state, and describes property owned by the obligor-licensee on which a lien will attach for the benefit of the state, and which creates the lien when filed.

Sec. 1369. RCW 70.121.050 and 2012 c 187 s 8 are each amended to read as follows:

On a quarterly basis on and after January 1, 1980, there shall be levied and the department shall collect a charge of five cents per pound on each pound of uranium or thorium compound milled out of the raw ore. All moneys paid to the department from these charges shall be deposited in a special security fund in the treasury of the state of Washington to be known as the "radiation perpetual maintenance fund." This security fund shall be used by the department when a licensee has ceased to operate and the site may still contain, or have associated with the site at which the licensed activity was conducted in spite of full compliance with RCW 70.121.030 (as recodified by this act), radioactive material which will require further maintenance, surveillance, or other care. If, with respect to a licensee, the department determines that the estimated total of

these charges will be less than or greater than that required to defray the estimated cost of administration of this responsibility, the department may prescribe such an increased or decreased charge as is considered necessary for this purpose. If, at termination of the license, the department determines that by the applicable standards and practices then in effect, the charges which have been collected from the licensee and earnings generated therefrom are in excess of the amount required to defray the cost of this responsibility, the department may refund the excess portion to the licensee. If, at termination of the license or cessation of operation, the department determines, by the applicable standards and practices then in effect, that the charges which have been collected from the licensee and earnings generated therefrom are together insufficient to defray the cost of this responsibility, the department may collect the excess portion from the licensee.

Sec. 1370. RCW 70.121.060 and 1979 ex.s. c 110 s 6 are each amended to read as follows:

In order to provide for the proper care and surveillance of sites under RCW 70.121.050 (as recodified by this act), the state may acquire by gift or transfer from any government agency, corporation, partnership, or person, all lands, buildings, and grounds necessary to fulfill the purposes of this chapter. Any such gift or transfer shall be subject to approval by the department. In exercising the authority of this section, the department shall take into consideration the status of the ownership of the land and interests therein and the ability of the licensee to transfer title and custody thereof to the state.

Sec. 1371. RCW 70.121.070 and 1979 ex.s. c 110 s 7 are each amended to read as follows:

Recognizing the uncertainty of the existence of a person or corporation in perpetuity, and recognizing that ultimate responsibility to protect the public health and safety must be reposed in a solvent government, without regard to the existence of any particular agency or department thereof, all lands, buildings, and grounds acquired by the state under RCW 70.121.060 (as recodified by this act) shall be owned in fee simple by the state and dedicated in perpetuity to the purposes stated in RCW 70.121.060 (as recodified by this act). All radioactive material received at a site and located therein at the time of acquisition of ownership by the state shall become the property of the state.

Sec. 1372. RCW 70.121.080 and 1979 ex.s. c 110 s 8 are each amended to read as follows:

If a person licensed by any governmental agency other than the state or if any other governmental agency desires to transfer a site to the state for the purpose of administering or providing perpetual care, a lump sum payment shall be made to the radiation perpetual maintenance fund. The amount of the deposit shall be determined by the department taking into consideration the factors stated in RCW 70.121.050 (as recodified by this act).

Sec. 1373. RCW 70.121.110 and 1987 c 184 s 6 are each amended to read as follows:

A bond shall be accepted by the department if it is a bond issued by a fidelity or surety company admitted to do business in the state of Washington and the fidelity or surety company is found by the state finance commission to be financially secure at licensing and licensing renewals, if it is a personal bond

secured by such collateral as the secretary deems satisfactory and in accordance with RCW 70.121.100 (as recodified by this act), or if it is a cash bond.

Sec. 1374. RCW 70.138.010 and 1987 c 528 s 1 are each amended to read as follows:

The legislature finds:

(1) Solid wastes generated in the state are to be managed in the following order of descending priority: (a) Waste reduction; (b) recycling; (c) treatment; (d) energy recovery or incineration; (e) solidification/stabilization; and (f) landfill.

(2) Special incinerator ash residues from the incineration of municipal solid waste that would otherwise be regulated as hazardous wastes need a separate regulatory scheme in order to (a) ease the permitting and reporting requirements of chapter 70.105 RCW (as recodified by this act), the state hazardous waste management act, and (b) supplement the environmental protection provisions of chapter 70.95 RCW (as recodified by this act), the state solid waste management act.

(3) Raw garbage poses significant environmental and public health risks. Municipal solid waste incineration constitutes a higher waste management priority than the land disposal of untreated municipal solid waste due to its reduction of waste volumes and environmental health risks.

It is therefore the purpose of this chapter to establish management requirements for special incinerator ash that otherwise would be regulated as hazardous waste under chapter 70.105 RCW (as recodified by this act), the hazardous waste management act.

Sec. 1375. RCW 70.138.020 and 1987 c 528 s 2 are each amended to read as follows:

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

(1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology or the director's designee.

(3) "Dispose" or "disposal" means the treatment, utilization, processing, or final deposit of special incineration ash.

(4) "Generate" means any act or process which produces special incinerator ash or which first causes special incinerator ash to become subject to regulation.

(5) "Management" means the handling, storage, collection, transportation, and disposal of special incinerator ash.

(6) "Person" means any person, firm, association, county, public or municipal or private corporation, agency, or other entity whatsoever.

(7) "Facility" means all structures, other appurtenances, improvements, and land used for recycling, storing, treating, or disposing of special incinerator ash.

(8) "Special incinerator ash" means ash residues resulting from the operation of incinerator or energy recovery facilities managing municipal solid waste, including solid waste from residential, commercial, and industrial establishments, if the ash residues (a) would otherwise be regulated as hazardous wastes under chapter 70.105 RCW (as recodified by this act); and (b) are not regulated as a hazardous waste under the federal resource conservation and recovery act, 42 U.S.C. Sec. 6901 et seq.

Sec. 1376. RCW 70.138.030 and 1987 c 528 s 3 are each amended to read as follows:

(1) Prior to managing special incinerator ash, persons who generate special incinerator ash shall develop plans for managing the special incinerator ash. These plans shall:

(a) Identify procedures for all aspects relating to the management of the special incinerator ash that are necessary to protect employees, human health, and the environment;

(b) Identify alternatives for managing solid waste prior to incineration for the purpose of (i) reducing the toxicity of the special incinerator ash; and (ii) reducing the quantity of the special incinerator ash;

(c) Establish a process for submittal of an annual report to the department disclosing the results of a testing program to identify the toxic properties of the special incinerator ash as necessary to ensure that the procedures established in the plans submitted pursuant to this chapter are adequate to protect employees, human health, and the environment; and

(d) Comply with the rules established by the department in accordance with this section.

(2) Prior to managing any special incinerator ash, any person required to develop a plan pursuant to subsection (1) of this section shall submit the plan to the department for review and approval. Prior to approving a plan, the department shall find that the plan complies with the provisions of this chapter, including any rules adopted under this chapter. Approval may be conditioned upon additional requirements necessary to protect employees, human health, and the environment, including special management requirements, waste segregation, or treatment techniques such as neutralization, detoxification, and solidification/stabilization.

(3) The department shall give notice of receipt of a proposed plan to interested persons and the public and shall accept public comment for a minimum of thirty days. The department shall approve, approve with conditions, or reject the plan submitted pursuant to this section within ninety days of submittal.

(4) Prior to accepting any special incinerator ash for disposal, persons owning or operating facilities for the disposal of the incinerator ash shall apply to the department for a permit. The department shall issue a permit if the disposal will provide adequate protection of human health and the environment. Prior to issuance of any permit, the department shall find that the facility meets the requirements of chapter 70.95 RCW (as recodified by this act) and any rules adopted under this chapter. The department may place conditions on the permit to include additional requirements necessary to protect employees, human health, and the environment, including special management requirements, waste segregation, or treatment techniques such as neutralization, detoxification, and solidification/stabilization.

(5) The department shall give notice of its receipt of a permit application to interested persons and the public and shall accept public comment for a minimum of thirty days. The department shall issue, issue with conditions, or deny the permit within ninety days of submittal.

(6) The department shall adopt rules to implement the provisions of this chapter. The rules shall (a) establish minimum requirements for the management

of special incinerator ash as necessary to protect employees, human health, and the environment, (b) clearly define the elements of the plans required by this chapter, and (c) require special incinerator ash to be disposed at facilities that are operating in compliance with this chapter.

Sec. 1377. RCW 70.142.050 and 1991 c 3 s 375 are each amended to read as follows:

Public water supply systems as defined by RCW 70.119.020 (as recodified by this act) that the state board of health or local health department determines do not comply with the water quality standards applicable to the system shall immediately initiate preparation of a corrective plan designed to meet or exceed the minimum standards for submission to the department of health. The owner of such system shall within one year take any action required to bring the water into full compliance with the standards. The department of health may require compliance as promptly as necessary to abate an immediate public health threat or may extend the period of compliance if substantial new construction is required: PROVIDED FURTHER, That the extension shall be granted only upon a determination by the department, after a public hearing, that the extension will not pose an imminent threat to public health. Each such system shall include a notice identifying the water quality standards exceeded, and the amount by which the water tested exceeded the standards, in all customer bills mailed after such determination. The notification shall continue until water quality tests conducted in accordance with this chapter establish that the system meets or exceeds the minimum standards.

Sec. 1378. RCW 70.146.030 and 2009 c 479 s 53 are each amended to read as follows:

The department may make grants or loans to public bodies, including grants to public bodies as cost-sharing moneys in any case where federal, local, or other funds are made available on a cost-sharing basis, for water pollution control facilities and activities, or for purposes of assisting a public body to obtain an ownership interest in water pollution control facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW 70.150.060 (as recodified by this act), within the purposes of this chapter and for related administrative expenses. No more than three percent of the moneys may be used by the department to pay for the administration of the grant and loan program authorized by this chapter.

Sec. 1379. RCW 70.146.060 and 2009 c 479 s 55 are each amended to read as follows:

Funds provided for facilities and activities under this chapter may be used for payments to a service provider under a service agreement pursuant to RCW 70.150.060 (as recodified by this act). If funds are to be used for such payments, the department may make periodic disbursements to a public body or may make a single lump sum disbursement. Disbursements of funds with respect to a facility owned or operated by a service provider shall be equivalent in value to disbursements that would otherwise be made if that facility were owned or operated by a public body. Payments under this chapter for waste disposal and management facilities made to public bodies entering into service agreements pursuant to RCW 70.150.060 (as recodified by this act) shall not exceed amounts paid to public bodies not entering into service agreements.

Sec. 1380. RCW 70.146.070 and 2013 c 275 s 4 are each amended to read as follows:

(1) When making grants or loans for water pollution control facilities, the department shall consider the following:

(a) The protection of water quality and public health;

(b) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(e) Except as otherwise conditioned by RCW 70.146.110 (as recodified by this act), whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(f) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

(g) Except as otherwise provided in RCW 70.146.120 (as recodified by this act), and effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under RCW 35.105.050, whether the project is sponsored by an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030;

(h) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(i) The recommendations of the Puget Sound partnership, created in RCW 90.71.210, and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. A county, city, or town that has adopted a comprehensive plan and development regulations as provided in RCW 36.70A.040 may request a grant or loan for water pollution control facilities. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before the department executes a contractual agreement for the grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility

located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) After January 1, 2010, any project designed to address the effects of water pollution on Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

Sec. 1381. RCW 70.146.100 and 2010 1st sp.s. c 37 s 948 are each amended to read as follows:

(1) The water quality capital account is created in the state treasury. Moneys in the water quality capital account may be spent only after appropriation.

(2) Expenditures from the water quality capital account may only be used: (a) To make grants or loans to public bodies, including grants to public bodies as cost-sharing moneys in any case where federal, local, or other moneys are made available on a cost-sharing basis, for the capital component of water pollution control facilities and activities; (b) for purposes of assisting a public body to obtain an ownership interest in water pollution control facilities; or (c) to defray any part of the capital component of the payments made by a public body to a service provider under a service agreement entered into under RCW 70.150.060 (as recodified by this act). During the 2009-2011 fiscal biennium, the legislature may transfer from the water quality capital account to the state general fund such amounts as reflect the excess fund balance of the account.

Sec. 1382. RCW 70.146.110 and 2007 c 341 s 27 are each amended to read as follows:

When making grants or loans for water pollution control facilities under RCW 70.146.070 (as recodified by this act), the department shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the action agenda developed by the Puget Sound partnership under RCW 90.71.310, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 1383. RCW 70.148.020 and 2019 c 413 s 7034 are each amended to read as follows:

(1) The pollution liability insurance program trust account is established in the custody of the state treasurer. All funds appropriated for this chapter and all premiums collected for reinsurance shall be deposited in the account. Except as provided in chapter 70.340 RCW (as recodified by this act), expenditures from the account shall be used exclusively for the purposes of this chapter including payment of costs of administering the pollution liability insurance and underground storage tank community assistance programs. Expenditures for payment of administrative and operating costs of the agency are subject to the allotment procedures under chapter 43.88 RCW and may be made only after appropriation by statute. No appropriation is required for other expenditures from the account.

(2) Each calendar quarter, the director shall report to the insurance commissioner the loss and surplus reserves required for the calendar quarter. The director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter.

(3) During the 2019-2021 fiscal biennium, the legislature may make appropriations from the pollution liability insurance program trust account for the leaking tank model remedies activity.

(4) This section expires July 1, 2030.

Sec. 1384. RCW 70.148.025 and 1995 c 20 s 12 are each amended to read as follows:

The director shall provide reinsurance through the pollution liability insurance program trust account to the heating oil pollution liability protection program under chapter 70.149 RCW (as recodified by this act).

Sec. 1385. RCW 70.148.070 and 1990 c 64 s 8 are each amended to read as follows:

(1) In selecting an insurer to provide pollution liability insurance coverage to owners and operators of underground storage tanks, the director shall evaluate bids based upon criteria established by the director that shall include:

- (a) The insurer's ability to underwrite pollution liability insurance;
- (b) The insurer's ability to settle pollution liability claims quickly and efficiently;
- (c) The insurer's estimate of underwriting and claims adjustment expenses;
- (d) The insurer's estimate of premium rates for providing coverage;
- (e) The insurer's ability to manage and invest premiums; and
- (f) The insurer's ability to provide risk management guidance to insureds.

The director shall select the bidder most qualified to provide insurance consistent with this chapter and need not select the bidder submitting the least expensive bid. The director may consider bids by groups of insurers and management companies who propose to act in concert in providing coverage and who otherwise meet the requirements of this chapter.

(2) The successful bidder shall agree to provide liability insurance coverage to owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action consistent with the following minimum standards:

- (a) The insurer shall provide coverage for defense costs.
- (b) The insurer shall collect a deductible from the insured for corrective action in an amount approved by the director.
- (c) The insurer shall provide coverage for accidental releases in the amount of five hundred thousand dollars per occurrence and one million dollars annual aggregate but no more than one million dollars per occurrence and two million dollars annual aggregate exclusive of defense costs.

(d) The insurer shall require insurance applicants to meet at least the following underwriting standards before issuing coverage to the applicant:

- (i) The applicant must be in compliance with statutes, ordinances, rules, regulations, and orders governing the ownership and operation of underground storage tanks as identified by the director by rule; and
- (ii) The applicant must exercise adequate underground storage tank risk management as specified by the director by rule.

(e) The insurer may exclude coverage for losses arising before the effective date of coverage, and the director may adopt rules establishing standards for determining whether a loss was incurred before the effective date of coverage.

(f) The insurer may exclude coverage for bodily injury, property damage, and corrective action as permitted by the director by rule.

(g) The insurer shall use a variable rate schedule approved by the director taking into account tank type, tank age, and other factors specified by the director.

(3) The director shall adopt all rules necessary to implement this section. In developing and adopting rules governing rates, deductibles, underwriting standards, and coverage conditions, limitations, and exclusions, the director shall balance the owner and operator's need for coverage with the need to maintain the actuarial integrity of the program, shall take into consideration the economic impact of the discontinued use of a storage tank upon the affected community, and shall consult with the standing technical advisory committee established under RCW 70.148.030(3) (as recodified by this act). In developing and adopting rules governing coverage exclusions affecting corrective action, the director shall consult with the Washington state department of ecology.

(4) Notwithstanding the definitions contained in RCW 70.148.010 (as recodified by this act), the director may permit an insurer to use different words or phrases describing the coverage provided under the program. In permitting such deviations from the definitions contained in RCW 70.148.010 (as recodified by this act), the director shall consider the regulations adopted by the United States environmental protection agency requiring financial responsibility by owners and operators of underground petroleum storage tanks.

(5) Owners and operators of underground storage tanks or sites containing underground storage tanks where a preexisting release has been identified or where the owner or operator knows of a preexisting release are eligible for coverage under the program subject to the following conditions:

(a) The owner or operator must have a plan for proceeding with corrective action; and

(b) If the owner or operator files a claim with the insurer, the owner or operator has the burden of proving that the claim is not related to a preexisting release until the owner or operator demonstrates to the satisfaction of the director that corrective action has been completed.

(6) When a reinsurance contract has been entered into by the agency and insurance companies, the director shall notify the department of ecology of the letting of the contract. Within thirty days of that notification, the department of ecology shall notify all known owners and operators of petroleum underground storage tanks that appropriate levels of financial responsibility must be established by October 26, 1990, in accordance with federal environmental protection agency requirements, and that insurance under the program is available. All owners and operators of petroleum underground storage tanks must also be notified that declaration of method of financial responsibility or intent to seek to be insured under the program must be made to the state by November 1, 1990. If the declaration of method of financial responsibility is not made by November 1, 1990, the department of ecology shall, pursuant to chapter 90.76 RCW (as recodified by this act), prohibit the owner or operator of an

underground storage tank from obtaining a tank tag or receiving petroleum products until such time as financial responsibility has been established.

Sec. 1386. RCW 70.149.030 and 2017 c 23 s 3 are each amended to read as follows:

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

(1) "Accidental release" means a sudden or nonsudden release of heating oil, occurring after July 23, 1995, from operating a heating oil tank that results in bodily injury, property damage, or a need for corrective action, neither expected nor intended by the owner or operator.

(2) "Bodily injury" means bodily injury, sickness, or disease sustained by a person, including death at any time, resulting from the injury, sickness, or disease.

(3)(a) "Corrective action" means those actions reasonably required to be undertaken by the insured to remove, treat, neutralize, contain, or clean up an accidental release in order to comply with a statute, ordinance, rule, regulation, directive, order, or similar legal requirement, in effect at the time of an accidental release, of the United States, the state of Washington, or a political subdivision of the United States or the state of Washington. "Corrective action" includes, where agreed to in writing, in advance by the insurer, action to remove, treat, neutralize, contain, or clean up an accidental release to avert, reduce, or eliminate the liability of the insured for corrective action, bodily injury, or property damage. "Corrective action" also includes actions reasonably necessary to monitor, assess, and evaluate an accidental release.

(b) "Corrective action" does not include:

(i) Replacement or repair of heating oil tanks or other receptacles; or

(ii) Replacement or repair of piping, connections, and valves of tanks or other receptacles.

(4) "Defense costs" include the costs of legal representation, expert fees, and related costs and expenses incurred in defending against claims or actions brought by or on behalf of:

(a) The United States, the state of Washington, or a political subdivision of the United States or state of Washington to require corrective action or to recover costs of corrective action; or

(b) A third party for bodily injury or property damage caused by an accidental release.

(5) "Director" means the director of the Washington state pollution liability insurance agency or the director's appointed representative.

(6) "Environmental covenant" has the same meaning as defined in RCW 64.70.020.

(7) "Facility" has the same meaning as defined in RCW 70.105D.020 (as recodified by this act).

(8) "Heating oil" means any petroleum product used for space heating in oil-fired furnaces, heaters, and boilers, including stove oil, diesel fuel, or kerosene. "Heating oil" does not include petroleum products used as fuels in motor vehicles, marine vessels, trains, buses, aircraft, or any off-highway equipment not used for space heating, or for industrial processing or the generation of electrical energy.

(9) "Heating oil tank" means a tank and its connecting pipes, whether above or below ground, or in a basement, with pipes connected to the tank for space heating of human living or working space on the premises where the tank is located. "Heating oil tank" does not include a decommissioned or abandoned heating oil tank, or a tank used solely for industrial process heating purposes or generation of electrical energy.

(10) "Independent remedial action" has the same meaning as defined in RCW 70.105D.020 (as recodified by this act).

(11) "Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a release from a heating oil tank.

(12) "Owner or operator" means a person in control of, or having responsibility for, the daily operation of a petroleum storage tank system.

(13) "Petroleum" means any petroleum-based substance including crude oil or any fraction that is liquid at standard conditions of temperature and pressure. The term "petroleum" includes, but is not limited to, petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, used oils, and heating oils. The term "petroleum" does not include propane, asphalt, or any other petroleum product that is not liquid at standard conditions of temperature and pressure. Standard conditions of temperature and pressure are at sixty degrees Fahrenheit and 14.7 pounds per square inch absolute.

(14) "Petroleum storage tank system" means a storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other substances. The systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, used oils, and heating oils. "Petroleum storage tank system" does not include any storage tank system regulated under chapter 70.105 RCW (as recodified by this act).

(15) "Pollution liability insurance agency" means the Washington state pollution liability insurance agency.

(16) "Property damage" means:

(a) Physical injury to, destruction of, or contamination of tangible property, including the loss of use of the property resulting from the injury, destruction, or contamination; or

(b) Loss of use of tangible property that has not been physically injured, destroyed, or contaminated but has been evacuated, withdrawn from use, or rendered inaccessible because of an accidental release.

(17) "Release" means a spill, leak, emission, escape, or leaching into the environment.

(18) "Remedial action" has the same meaning as defined in RCW 70.105D.020 (as recodified by this act).

(19) "Remedial action costs" means reasonable costs that are attributable to or associated with a remedial action.

(20) "Tank" means a stationary device, designed to contain an accumulation of heating oil, that is constructed primarily of nonferrous materials such as concrete, steel, fiberglass, or plastic that provides structural support.

(21) "Third-party liability" means the liability of a heating oil tank owner to another person due to property damage or personal injury that results from a leak or spill.

Sec. 1387. RCW 70.149.040 and 2018 c 194 s 3 are each amended to read as follows:

The director shall:

(1) Design a program, consistent with RCW 70.149.120 (as recodified by this act), for providing pollution liability insurance for heating oil tanks that provides up to sixty thousand dollars per occurrence coverage and aggregate limits, not to exceed fifteen million dollars each calendar year, and protects the state of Washington from unwanted or unanticipated liability for accidental release claims;

(2) Administer, implement, and enforce the provisions of this chapter. To assist in administration of the program, the director is authorized to appoint up to two employees who are exempt from the civil service law, chapter 41.06 RCW, and who shall serve at the pleasure of the director;

(3) Administer the heating oil pollution liability trust account, as established under RCW 70.149.070 (as recodified by this act);

(4) Employ and discharge, at his or her discretion, agents, attorneys, consultants, companies, organizations, and employees as deemed necessary, and to prescribe their duties and powers, and fix their compensation;

(5) Adopt rules under chapter 34.05 RCW as necessary to carry out the provisions of this chapter;

(6) Design and from time to time revise a reinsurance contract providing coverage to an insurer or insurers meeting the requirements of this chapter. The director is authorized to provide reinsurance through the pollution liability insurance program trust account;

(7) Solicit bids from insurers and select an insurer to provide pollution liability insurance for third-party bodily injury and property damage, and corrective action to owners and operators of heating oil tanks;

(8) Register, and design a means of accounting for, operating heating oil tanks;

(9) Implement a program to provide advice and technical assistance on the administrative and technical requirements of this chapter and chapter 70.105D RCW (as recodified by this act) to persons who are conducting or otherwise interested in independent remedial actions at facilities where there is a suspected or confirmed release from the following petroleum storage tank systems: A heating oil tank; a decommissioned heating oil tank; an abandoned heating oil tank; or a petroleum storage tank system identified by the department of ecology based on the relative risk posed by the release to human health and the environment, as determined under chapter 70.105D RCW (as recodified by this act), or other factors identified by the department of ecology.

(a) Such advice or assistance is advisory only, and is not binding on the pollution liability insurance agency or the department of ecology. As part of this advice and assistance, the pollution liability insurance agency may provide written opinions on whether independent remedial actions or proposals for these actions meet the substantive requirements of chapter 70.105D RCW (as recodified by this act), or whether the pollution liability insurance agency believes further remedial action is necessary at the facility. As part of this advice and assistance, the pollution liability insurance agency may also observe independent remedial actions.

(b) The agency is authorized to collect, from persons requesting advice and assistance, the costs incurred by the agency in providing such advice and assistance. The costs may include travel costs and expenses associated with review of reports and preparation of written opinions and conclusions. Funds from cost reimbursement must be deposited in the heating oil pollution liability trust account.

(c) The state of Washington, the pollution liability insurance agency, and its officers and employees are immune from all liability, and no cause of action arises from any act or omission in providing, or failing to provide, such advice, opinion, conclusion, or assistance;

(10) Establish a public information program to provide information regarding liability, technical, and environmental requirements associated with active and abandoned heating oil tanks;

(11) Monitor agency expenditures and seek to minimize costs and maximize benefits to ensure responsible financial stewardship;

(12) Study if appropriate user fees to supplement program funding are necessary and develop recommendations for legislation to authorize such fees;

(13) Establish requirements, including deadlines not to exceed ninety days, for reporting to the pollution liability insurance agency a suspected or confirmed release from a heating oil tank, including a decommissioned or abandoned heating oil tank, that may pose a threat to human health or the environment by the owner or operator of the heating oil tank or the owner of the property where the release occurred;

(14) Within ninety days of receiving information and having a reasonable basis to believe that there may be a release from a heating oil tank, including decommissioned or abandoned heating oil tanks, that may pose a threat to human health or the environment, perform an initial investigation to determine at a minimum whether such a release has occurred and whether further remedial action is necessary under chapter 70.105D RCW (as recodified by this act). The initial investigation may include, but is not limited to, inspecting, sampling, or testing. The director may retain contractors to perform an initial investigation on the agency's behalf;

(15) For any written opinion issued under subsection (9) of this section requiring an environmental covenant as part of the remedial action, consult with, and seek comment from, a city or county department with land use planning authority for real property subject to the environmental covenant prior to the property owner recording the environmental covenant; and

(16) For any property where an environmental covenant has been established as part of the remedial action approved under subsection (9) of this section, periodically review the environmental covenant for effectiveness. The director shall perform a review at least once every five years after an environmental covenant is recorded.

Sec. 1388. RCW 70.149.070 and 2017 c 23 s 5 are each amended to read as follows:

(1) The heating oil pollution liability trust account is created in the custody of the state treasurer. All receipts from the pollution liability insurance fee collected under RCW 70.149.080 (as recodified by this act) and reinsurance premiums shall be deposited into the account. Expenditures from the account may be used only for the purposes set out under 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 no appropriation is required for expenditures.

(2) Money in the account may be used by the director for the following purposes:

- (a) Corrective action costs;
- (b) Third-party liability claims;
- (c) Costs associated with claims administration;
- (d) Purchase of an insurance policy to cover all registered heating oil tanks, and reinsurance of the policy; and
- (e) Administrative expenses of the program, including personnel, equipment, supplies, and providing advice and technical assistance.

Sec. 1389. RCW 70.149.120 and 2007 c 240 s 2 are each amended to read as follows:

(1) The pollution liability insurance agency shall identify design criteria for heating oil tanks that provide superior protection against future leaks as compared to standard steel tank designs. Any tank designs identified under this section must either be constructed with fiberglass or offer at least an equivalent level of protection against leaks as a standard fiberglass design.

(2) The pollution liability insurance agency shall reimburse any owner or operator, who is participating in the program created in this chapter and who has experienced an occurrence or remedial action, for the difference in price between a standard steel heating tank and a new heating oil tank that satisfies the design standards identified under subsection (1) of this section, if the owner or operator chooses or is required to replace his or her tank at the time of the occurrence or remedial action.

(3) Any new heating oil tank reimbursement provided under this section must be funded within the amount of per occurrence coverage provided to the owner or operator under RCW 70.149.040 (as recodified by this act).

Sec. 1390. RCW 70.150.030 and 1986 c 244 s 3 are each amended to read as follows:

(1) Public bodies may enter into agreements with service providers for the furnishing of service in connection with water pollution control facilities pursuant to the process set forth in RCW 70.150.040 (as recodified by this act). The agreements may provide that a public body pay a minimum periodic fee in consideration of the service actually available without regard to the amount of service actually used during all or any part of the contractual period. Agreements may be for a term not to exceed forty years or the life of the facility, whichever is longer, and may be renewable.

(2) The source of funds to meet periodic payment obligations assumed by a public body pursuant to an agreement permitted under this section may be paid from taxes, or solely from user fees, charges, or other revenues pledged to the payment of the periodic obligations, or any of these sources.

Sec. 1391. RCW 70.150.070 and 2007 c 494 s 505 are each amended to read as follows:

RCW 70.150.030 through 70.150.060 (as recodified by this act) 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.

Sec. 1392. RCW 70.164.020 and 2015 c 50 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) "Department" means the department of commerce.

(2) "Direct outreach" means:

(a) The use of door-to-door contact, community events, and other methods of direct interaction with customers to inform them of energy efficiency and weatherization opportunities; and

(b) The performance of energy audits.

(3) "Energy audit" means an analysis of a dwelling unit to determine the need for cost-effective energy conservation measures as determined by the department.

(4) "Healthy housing improvements" means increasing the health and safety of a home by integrating energy efficiency activities and indoor environmental quality measures, consistent with the weatherization plus health initiative of the federal department of energy and the healthy housing principles adopted by the federal department of housing and urban development.

(5) "Household" means an individual or group of individuals living in a dwelling unit as defined by the department.

(6) "Low income" means household income as defined by the department, provided that the definition may not exceed eighty percent of median household income, adjusted for household size, for the county in which the dwelling unit to be weatherized is located.

(7) "Nonutility sponsor" means any sponsor other than a public service company, municipality, public utility district, mutual or cooperative, furnishing gas or electricity used to heat low-income residences.

(8) "Residence" means a dwelling unit as defined by the department.

(9) "Sponsor" means any entity that submits a proposal under RCW 70.164.040 (as recodified by this act), including but not limited to any local community action agency, tribal nation, community service agency, or any other participating agency or any public service company, municipality, public utility district, mutual or cooperative, or any combination of such entities that jointly submits a proposal.

(10) "Sponsor match" means the share of the cost of weatherization to be paid by the sponsor.

(11) "Sustainable residential weatherization" or "weatherization" means activities that use funds administered by the department for one or more of the following: (a) Energy and resource conservation; (b) energy efficiency improvements; (c) repairs, indoor air quality improvements, and health and safety improvements; and (d) client education. Funds administered by the department for activities authorized under this subsection may only be used for the preservation of a dwelling unit occupied by a low-income household and must, to the extent feasible, be used to support and advance sustainable technologies.

(12) "Weatherizing agency" means any approved department grantee, tribal nation, or any public service company, municipality, public utility district,

mutual or cooperative, or other entity that bears the responsibility for ensuring the performance of weatherization of residences under this chapter and has been approved by the department.

Sec. 1393. RCW 70.164.030 and 2010 c 287 s 3 are each amended to read as follows:

(1) The low-income weatherization and structural rehabilitation assistance account is created in the state treasury. All moneys from the money distributed to the state pursuant to *Exxon v. United States*, 561 F.Supp. 816 (1983), affirmed 773 F.2d 1240 (1985), or any other oil overcharge settlements or judgments distributed by the federal government, that are allocated to the low-income weatherization and structural rehabilitation assistance account shall be deposited in the account. The department may accept such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, and shall deposit such funds in the account. Any moneys received from sponsor match payments shall be deposited in the account. The legislature may also appropriate moneys to the account. Moneys in the account shall be spent pursuant to appropriation and only for the purposes and in the manner provided in RCW 70.164.040 (as recodified by this act). Any moneys appropriated that are not spent by the department shall return to the account.

(2) The purposes of the low-income weatherization and structural rehabilitation assistance account are to:

(a) Maximize the number of energy efficient residential structures in the state;

(b) Achieve the greatest possible expected monetary and energy savings by low-income households and other energy consumers over the longest period of time;

(c) Identify and correct, to the extent practicable, health and safety problems for residents of low-income households, including asbestos, lead, and mold hazards;

(d) Leverage the many available state and federal programs aimed at increasing the quality and energy efficiency of low-income residences in the state;

(e) Create family-wage jobs that may lead to careers in the construction trades or in the energy efficiency sectors; and

(f) Leverage, to the extent feasible, sustainable technologies, practices, and designs, including renewable energy systems.

Sec. 1394. RCW 70.220.020 and 2005 c 305 s 2 are each amended to read as follows:

The Washington academy of sciences authorized to be formed under RCW 70.220.030 (as recodified by 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 RCW 70.220.040 (as recodified by 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.

Sec. 1395. RCW 70.220.030 and 2005 c 305 s 3 are each amended to read as follows:

(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 RCW 70.220.040 (as recodified by 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.

Sec. 1396. RCW 70.220.050 and 2005 c 305 s 5 are each amended to read as follows:

The academy may carry out functions or provide services to its members and the public in addition to the services provided under RCW 70.220.040 (as recodified by this act), such as public education programs, newsletters, web sites, science fairs, and research assistance.

Sec. 1397. RCW 70.235.005 and 2008 c 14 s 1 are each amended to read as follows:

(1) The legislature finds that Washington has long been a national and international leader on energy conservation and environmental stewardship, including air quality protection, renewable energy development and generation, emission standards for fossil-fuel based energy generation, energy efficiency programs, natural resource conservation, vehicle emission standards, and the use

of biofuels. Washington is also unique among most states in that in addition to its commitment to reduce emissions of greenhouse gases, it has established goals to grow the clean energy sector and reduce the state's expenditures on imported fuels.

(2) The legislature further finds that Washington should continue its leadership on climate change policy by creating accountability for achieving the emission reductions established in RCW 70.235.020 (as recodified by this act), participating in the design of a regional multisector market-based system to help achieve those emission reductions, assessing other market strategies to reduce emissions of greenhouse gases, and ensuring the state has a well trained workforce for our clean energy future.

(3) It is the intent of the legislature that the state will: (a) Limit and reduce emissions of greenhouse gas consistent with the emission reductions established in RCW 70.235.020 (as recodified by this act); (b) minimize the potential to export pollution, jobs, and economic opportunities; and (c) reduce emissions at the lowest cost to Washington's economy, consumers, and businesses.

(4) In the event the state elects to participate in a regional multisector market-based system, it is the intent of the legislature that the system will become effective by January 1, 2012, after authority is provided to the department for its implementation. By acting now, Washington businesses and citizens will have adequate time and opportunities to be well positioned to take advantage of the low-carbon economy and to make necessary investments in low-carbon technology.

(5) It is also the intent of the legislature that the regional multisector market-based system recognize Washington's unique emissions portfolio, including the state's hydroelectric system, the opportunities presented by Washington's abundant forest resources and agriculture land, and the state's leadership in energy efficiency and the actions it has already taken that have reduced its generation of greenhouse gas emissions and that entities receive appropriate credit for early actions to reduce greenhouse gases.

(6) If any revenues that accrue to the state are created by a market system, they must be used to further the state's efforts to achieve the goals established in RCW 70.235.020 (as recodified by this act), address the impacts of global warming on affected habitats, species, and communities, and increase investment in the clean energy economy particularly for communities and workers that have suffered from heavy job losses and chronic unemployment and underemployment.

Sec. 1398. RCW 70.235.020 and 2008 c 14 s 3 are each amended to read as follows:

(1)(a) The state shall limit emissions of greenhouse gases to achieve the following emission reductions for Washington state:

(i) By 2020, reduce overall emissions of greenhouse gases in the state to 1990 levels;

(ii) By 2035, reduce overall emissions of greenhouse gases in the state to twenty-five percent below 1990 levels;

(iii) By 2050, the state will do its part to reach global climate stabilization levels by reducing overall emissions to fifty percent below 1990 levels, or seventy percent below the state's expected emissions that year.

(b) By December 1, 2008, the department shall submit a greenhouse gas reduction plan for review and approval to the legislature, describing those actions necessary to achieve the emission reductions in (a) of this subsection by using existing statutory authority and any additional authority granted by the legislature. Actions taken using existing statutory authority may proceed prior to approval of the greenhouse gas reduction plan.

(c) Except where explicitly stated otherwise, nothing in chapter 14, Laws of 2008 limits any state agency authorities as they existed prior to June 12, 2008.

(d) Consistent with this directive, the department shall take the following actions:

(i) Develop and implement a system for monitoring and reporting emissions of greenhouse gases as required under RCW 70.94.151 (as recodified by this act); and

(ii) Track progress toward meeting the emission reductions established in this subsection, including the results from policies currently in effect that have been previously adopted by the state and policies adopted in the future, and report on that progress.

(2) By December 31st of each even-numbered year beginning in 2010, the department and the department of ~~((community, trade, and economic development))~~ commerce shall report to the governor and the appropriate committees of the senate and house of representatives the total emissions of greenhouse gases for the preceding two years, and totals in each major source sector. The department shall ensure the reporting rules adopted under RCW 70.94.151 (as recodified by this act) allow it to develop a comprehensive inventory of emissions of greenhouse gases from all significant sectors of the Washington economy.

(3) Except for purposes of reporting, emissions of carbon dioxide from industrial combustion of biomass in the form of fuel wood, wood waste, wood by-products, and wood residuals shall not be considered a greenhouse gas as long as the region's silvicultural sequestration capacity is maintained or increased.

Sec. 1399. RCW 70.235.030 and 2008 c 14 s 4 are each amended to read as follows:

(1)(a) The director shall develop, in coordination with the western climate initiative, a design for a regional multisector market-based system to limit and reduce emissions of greenhouse gas consistent with the emission reductions established in RCW 70.235.020(1) (as recodified by this act).

(b) By December 1, 2008, the director and the director of the department of ~~((community, trade, and economic development))~~ commerce shall deliver to the legislature specific recommendations for approval and request for authority to implement the preferred design of a regional multisector market-based system in (a) of this subsection. These recommendations must include:

(i) Proposed legislation, necessary funding, and the schedule necessary to implement the preferred design by January 1, 2012;

(ii) Any changes determined necessary to the reporting requirements established under RCW 70.94.151 (as recodified by this act); and

(iii) Actions that the state should take to prevent manipulation of the multisector market-based system designed under this section.

(2) In developing the design for the regional multisector market-based system under subsection (1) of this section, the department shall consult with the affected state agencies, and provide opportunity for public review and comment.

(3) In addition to the information required under subsection (1)(b) of this section, the director and the director of the department of (~~community, trade, and economic development~~) commerce shall submit the following to the legislature by December 1, 2008:

(a) Information on progress to date in achieving the requirements of chapter 14, Laws of 2008;

(b) The final recommendations of the climate advisory team, including recommended most promising actions to reduce emissions of greenhouse gases or otherwise respond to climate change. These recommendations must include strategies to reduce the quantity of emissions of greenhouse gases per distance traveled in the transportation sector;

(c) A request for additional resources and statutory authority needed to limit and reduce emissions of greenhouse gas consistent with chapter 14, Laws of 2008 including implementation of the most promising recommendations of the climate advisory team;

(d) Recommendations on how projects funded by the green energy incentive account in RCW 43.325.040 may be used to expand the electrical transmission infrastructure into urban and rural areas of the state for purposes of allowing the recharging of plug-in hybrid electric vehicles;

(e) Recommendations on how local governments could participate in the multisector market-based system designed under subsection (1) of this section;

(f) Recommendations regarding the circumstances under which generation of electricity or alternative fuel from landfill gas and gas from anaerobic digesters may receive an offset or credit in the regional multisector market-based system or other strategies developed by the department; and

(g) Recommendations developed in consultation with the department of natural resources and the department of agriculture with the climate advisory team, the college of forest resources at the University of Washington, and the Washington State University, and a nonprofit consortium involved in research on renewable industrial materials, regarding how forestry and agricultural lands and practices may participate voluntarily as an offset or other credit program in the regional multisector market-based system. The recommendations must ensure that the baseline for this offset or credit program does not disadvantage this state in relation to another state or states. These recommendations shall address:

(i) Commercial and other working forests, including accounting for site-class specific forest management practices;

(ii) Agricultural and forest products, including accounting for substitution of wood for fossil intensive substitutes;

(iii) Agricultural land and practices;

(iv) Forest and agricultural lands set aside or managed for conservation as of, or after, June 12, 2008; and

(v) Reforestation and afforestation projects.

Sec. 1400. RCW 70.235.040 and 2008 c 14 s 7 are each amended to read as follows:

Within eighteen months of the next and each successive global or national assessment of climate change science, the department shall consult with the

climate impacts group at the University of Washington regarding the science on human-caused climate change and provide a report to the legislature summarizing that science and make recommendations regarding whether the greenhouse gas emissions reductions required under RCW 70.235.020 (as recodified by this act) need to be updated.

Sec. 1401. RCW 70.235.050 and 2015 c 225 s 110 are each amended to read as follows:

(1) All state agencies shall meet the statewide greenhouse gas emission limits established in RCW 70.235.020 (as recodified by this act) to achieve the following, using the estimates and strategy established in subsections (2) and (3) of this section:

(a) By July 1, 2020, reduce emissions by fifteen percent from 2005 emission levels;

(b) By 2035, reduce emissions to thirty-six percent below 2005 levels; and

(c) By 2050, reduce emissions to the greater reduction of fifty-seven and one-half percent below 2005 levels, or seventy percent below the expected state government emissions that year.

(2)(a) By June 30, 2010, all state agencies shall report estimates of emissions for 2005 to the department, including 2009 levels of emissions, and projected emissions through 2035.

(b) State agencies required to report under RCW 70.94.151 (as recodified by this act) must estimate emissions from methodologies recommended by the department and must be based on actual operation of those agencies. Agencies not required to report under RCW 70.94.151 (as recodified by this act) shall derive emissions estimates using an emissions calculator provided by the department.

(3) By June 30, 2011, each state agency shall submit to the department a strategy to meet the requirements in subsection (1) of this section. The strategy must address employee travel activities, teleconferencing alternatives, and include existing and proposed actions, a timeline for reductions, and recommendations for budgetary and other incentives to reduce emissions, especially from employee business travel.

(4) By October 1st of each even-numbered year beginning in 2012, each state agency shall report to the department the actions taken to meet the emission reduction targets under the strategy for the preceding fiscal biennium. The department may authorize the department of enterprise services to report on behalf of any state agency having fewer than five hundred full-time equivalent employees at any time during the reporting period. The department shall cooperate with the department of enterprise services and the department of commerce to develop consolidated reporting methodologies that incorporate emission reduction actions taken across all or substantially all state agencies.

(5) All state agencies shall cooperate in providing information to the department, the department of enterprise services, and the department of commerce for the purposes of this section.

(6) The governor shall designate a person as the single point of accountability for all energy and climate change initiatives within state agencies. This position must be funded from current full-time equivalent allocations without increasing budgets or staffing levels. If duties must be shifted within an agency, they must be shifted among current full-time equivalent allocations. All

agencies, councils, or work groups with energy or climate change initiatives shall coordinate with this designee.

Sec. 1402. RCW 70.235.060 and 2009 c 519 s 5 are each amended to read as follows:

(1) The department shall develop an emissions calculator to assist state agencies in estimating aggregate emissions as well as in estimating the relative emissions from different ways in carrying out activities.

(2) The department may use data such as totals of building space occupied, energy purchases and generation, motor vehicle fuel purchases and total mileage driven, and other reasonable sources of data to make these estimates. The estimates may be derived from a single methodology using these or other factors, except that for the top ten state agencies in occupied building space and vehicle miles driven, the estimates must be based upon the actual and projected operations of those agencies. The estimates may be adjusted, and reasonable estimates derived, when agencies have been created since 1990 or functions reorganized among state agencies since 1990. The estimates may incorporate projected emissions reductions that also affect state agencies under the program authorized in RCW 70.235.020 (as recodified by this act) and other existing policies that will result in emissions reductions.

(3) By December 31st of each even-numbered year beginning in 2010, the department shall report to the governor and to the appropriate committees of the senate and house of representatives the total state agencies' emissions of greenhouse gases for 2005 and the preceding two years and actions taken to meet the emissions reduction targets.

Sec. 1403. RCW 70.235.070 and 2009 c 519 s 9 are each amended to read as follows:

Beginning in 2010, when distributing capital funds through competitive programs for infrastructure and economic development projects, all state agencies must consider whether the entity receiving the funds has adopted policies to reduce greenhouse gas emissions. Agencies also must consider whether the project is consistent with:

(1) The state's limits on the emissions of greenhouse gases established in RCW 70.235.020 (as recodified by this act);

(2) Statewide goals to reduce annual per capita vehicle miles traveled by 2050, in accordance with RCW 47.01.440, except that the agency shall consider whether project locations in rural counties, as defined in RCW 43.160.020, will maximize the reduction of vehicle miles traveled; and

(3) Applicable federal emissions reduction requirements.

Sec. 1404. RCW 70.235.080 and 2019 c 284 s 3 are each amended to read as follows:

(1) A person may not offer any product or equipment for sale, lease, or rent, or install or otherwise cause any equipment or product to enter into commerce in Washington if that equipment or product consists of, uses, or will use a substitute, as set forth in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, for the applications or end uses restricted by appendix U or V of the federal regulation, as those read on January 3, 2017, consistent with the deadlines established in subsection (2) of this section. Except where existing equipment is retrofit, nothing in this subsection requires a person

that acquired a restricted product or equipment prior to the effective date of the restrictions in subsection (2) of this section to cease use of that product or equipment. Products or equipment manufactured prior to the applicable effective date of the restrictions specified in subsection (2) of this section may be sold, imported, exported, distributed, installed, and used after the specified effective date.

(2) The restrictions under subsection (1) of this section for the following products and equipment identified in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, take effect beginning:

(a) January 1, 2020, for:

(i) Propellants;

(ii) Rigid polyurethane applications and spray foam, flexible polyurethane, integral skin polyurethane, flexible polyurethane foam, polystyrene extruded sheet, polyolefin, phenolic insulation board, and bunstock;

(iii) Supermarket systems, remote condensing units, stand-alone units, and vending machines;

(b) January 1, 2021, for:

(i) Refrigerated food processing and dispensing equipment;

(ii) Compact residential consumer refrigeration products;

(iii) Polystyrene extruded boardstock and billet, and rigid polyurethane low-pressure two component spray foam;

(c) January 1, 2022, for residential consumer refrigeration products other than compact and built-in residential consumer refrigeration products;

(d) January 1, 2023, for cold storage warehouses;

(e) January 1, 2023, for built-in residential consumer refrigeration products;

(f) January 1, 2024, for centrifugal chillers and positive displacement chillers; and

(g) On either January 1, 2020, or the effective date of the restrictions identified in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, whichever comes later, for all other applications and end uses for substitutes not covered by the categories listed in (a) through (f) of this subsection.

(3) The department may by rule:

(a) Modify the effective date of a prohibition established in subsection (2) of this section if the department determines that the rule reduces the overall risk to human health or the environment and reflects the earliest date that a substitute is currently or potentially available;

(b) Prohibit the use of a substitute if the department determines that the prohibition reduces the overall risk to human health or the environment and that a lower risk substitute is currently or potentially available;

(c)(i) Adopt a list of approved substitutes, use conditions, or use limits, if any; and

(ii) Add or remove substitutes, use conditions, or use limits to or from the list of approved substitutes if the department determines those substitutes reduce the overall risk to human health and the environment; and

(d) Designate acceptable uses of hydrofluorocarbons for medical uses that are exempt from the requirements of subsection (2) of this section.

(4)(a) Within twelve months of another state's enactment or adoption of restrictions on substitutes applicable to new light duty vehicles, the department

may adopt restrictions applicable to the sale, lease, rental, or other introduction into commerce by a manufacturer of new light duty vehicles consistent with the restrictions identified in appendix B, Subpart G of 40 C.F.R. Part 82, as it read on January 3, 2017. The department may not adopt restrictions that take effect prior to the effective date of restrictions adopted or enacted in at least one other state.

(b) If the United States environmental protection agency approves a previously prohibited hydrofluorocarbon blend with a global warming potential of seven hundred fifty or less for foam blowing of polystyrene extruded boardstock and billet and rigid polyurethane low-pressure two-component spray foam pursuant to the significant new alternatives policy program under section 7671(k) of the federal clean air act (42 U.S.C. Sec. 7401 et seq.), the department must expeditiously propose a rule consistent with RCW 34.05.320 to conform the requirements established under this section with that federal action.

(5) A manufacturer must disclose the substitutes used in its products or equipment. That disclosure must take the form of:

(a) A label on the equipment or product. The label must meet requirements designated by the department by rule. To the extent feasible, the department must recognize existing labeling that provides sufficient disclosure of the use of substitutes in the product or equipment.

(i) The department must consider labels required by state building codes and other safety standards in its rule making; and

(ii) The department may not require labeling of aircraft and aircraft components subject to certification requirements of the federal aviation administration.

(b) Submitting information about the use of substitutes to the department, upon request.

(i) By December 31, 2019, all manufacturers must notify the department of the status of each product class utilizing hydrofluorocarbons or other substitutes restricted under subsection (1) of this section that the manufacturer sells, offers for sale, leases, installs, or rents in Washington state. This status notification must identify the substitutes used by products or equipment in each product or equipment class in a manner determined by rule by the department.

(ii) Within one hundred twenty days after the date of a restriction put in place under this section, any manufacturer affected by the restriction must provide an updated status notification. This notification must indicate whether the manufacturer has ceased the use of hydrofluorocarbons or substitutes restricted under this section within each product class and, if not, what hydrofluorocarbons or other restricted substitutes remain in use.

(iii) After the effective date of a restriction put in place under this section, any manufacturer must provide an updated status notification when the manufacturer introduces a new or modified product or piece of equipment that uses hydrofluorocarbons or changes the type of hydrofluorocarbons utilized within a product class affected by a restriction. Such a notification must occur within one hundred twenty days of the introduction into commerce in Washington of the product or equipment triggering this notification requirement.

(6) The department may adopt rules to administer, implement, and enforce this section. If the department elects to adopt rules, the department must seek, where feasible and appropriate, to adopt rules, including rules under subsection

(4) of this section, that are the same or consistent with the regulatory standards, exemptions, reporting obligations, disclosure requirements, and other compliance requirements of other states or the federal government that have adopted restrictions on the use of hydrofluorocarbons and other substitutes. Prior to the adoption or update of a rule under this section, the department must identify the sources of information it relied upon, including peer-reviewed science.

(7) For the purposes of implementing the restrictions specified in appendix U of Subpart G of 40 C.F.R. Part 82, as it read on January 3, 2017, consistent with this section, the department must interpret the term "aircraft maintenance" to mean activities to support the production, fabrication, manufacture, rework, inspection, maintenance, overhaul, or repair of commercial, civil, or military aircraft, aircraft parts, aerospace vehicles, or aerospace components.

(8) The authority granted by this section to the department for restricting the use of substitutes is supplementary to the department's authority to control air pollution pursuant to chapter 70.94 RCW (as recodified by this act). Nothing in this section limits the authority of the department under chapter 70.94 RCW (as recodified by this act).

(9) Except where existing equipment is retrofitted, the restrictions of this section do not apply to or limit any use of commercial refrigeration equipment that was installed or in use prior to the effective date of the restrictions established in this section.

Sec. 1405. RCW 70.240.010 and 2016 c 176 s 1 are each reenacted and amended to read as follows:

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

(1) "Additive TBBPA" means the chemical tetrabromobisphenol A, chemical abstracts service number 79-94-7, as of June 9, 2016, in a form that has not undergone a reactive process and is not covalently bonded to a polymer in a product or product component.

(2) "Children's cosmetics" means cosmetics that are made for, marketed for use by, or marketed to children under the age of twelve. "Children's cosmetics" includes cosmetics that meet any of the following conditions:

(a) Represented in its packaging, display, or advertising as appropriate for use by children;

(b) Sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children; or

(c) Sold in any of the following:

(i) Retail store, catalogue, or online web site, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(ii) A discrete portion of a retail store, catalogue, or online web site, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(3) "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to children under the age of twelve. "Children's jewelry" includes jewelry that meets any of the following conditions:

(a) Represented in its packaging, display, or advertising as appropriate for use by children under the age of twelve;

(b) Sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children;

(c) Sized for children and not intended for use by adults; or

(d) Sold in any of the following:

(i) A vending machine;

(ii) Retail store, catalogue, or online web site, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(iii) A discrete portion of a retail store, catalogue, or online web site, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(4)(a) "Children's product" includes any of the following:

(i) Toys;

(ii) Children's cosmetics;

(iii) Children's jewelry;

(iv) A product designed or intended by the manufacturer to help a child with sucking or teething, to facilitate sleep, relaxation, or the feeding of a child, or to be worn as clothing by children; or

(v) Portable infant or child safety seat designed to attach to an automobile seat.

(b) "Children's product" does not include the following:

(i) Batteries;

(ii) Slings and catapults;

(iii) Sets of darts with metallic points;

(iv) Toy steam engines;

(v) Bicycles and tricycles;

(vi) Video toys that can be connected to a video screen and are operated at a nominal voltage exceeding twenty-four volts;

(vii) Chemistry sets;

(viii) Consumer and children's electronic products, including but not limited to personal computers, audio and video equipment, calculators, wireless phones, game consoles, and handheld devices incorporating a video screen, used to access interactive software and their associated peripherals;

(ix) Interactive software, intended for leisure and entertainment, such as computer games, and their storage media, such as compact disks;

(x) BB guns, pellet guns, and air rifles;

(xi) Snow sporting equipment, including skis, poles, boots, snow boards, sleds, and bindings;

(xii) Sporting equipment, including, but not limited to bats, balls, gloves, sticks, pucks, and pads;

(xiii) Roller skates;

(xiv) Scooters;

(xv) Model rockets;

(xvi) Athletic shoes with cleats or spikes; and

(xvii) Pocket knives and multitools.

(5) "Cosmetics" includes articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and articles intended for use as a component of such an article. "Cosmetics" does not include soap, dietary supplements, or food and drugs approved by the United States food and drug administration.

(6) "Decabromodiphenyl ether" means the chemical decabromodiphenyl ether, chemical abstracts service number 1163-19-5, as of June 9, 2016.

(7) "Department" means the department of ecology.

(8) "HBCD" means the chemical hexabromocyclododecane, chemical abstracts service number 25637-99-4, as of June 9, 2016.

(9) "High priority chemical" means a chemical identified by a state agency, federal agency, or accredited research university, or other scientific evidence deemed authoritative by the department on the basis of credible scientific evidence as known to do one or more of the following:

(a) Harm the normal development of a fetus or child or cause other developmental toxicity;

(b) Cause cancer, genetic damage, or reproductive harm;

(c) Disrupt the endocrine system;

(d) Damage the nervous system, immune system, or organs or cause other systemic toxicity;

(e) Be persistent, bioaccumulative, and toxic; or

(f) Be very persistent and very bioaccumulative.

(10) "IPTPP" means the chemical isopropylated triphenyl phosphate, chemical abstracts service number 68937-41-7, as of June 9, 2016.

(11) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces residential upholstered furniture as defined in RCW 70.76.010 (as recodified by this act) or children's product or an importer or domestic distributor of residential upholstered furniture as defined in RCW 70.76.010 (as recodified by this act) or children's product. For the purposes of this subsection, "importer" means the owner of the residential upholstered furniture as defined in RCW 70.76.010 (as recodified by this act) or children's product.

(12) "Phthalates" means di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate (BBP), diisonoyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP).

(13) "TBB" means the chemical (2-ethylhexyl)-2,3,4,5-tetrabromobenzoate, chemical abstracts service number 183658-27-7, as of June 9, 2016.

(14) "TBPH" means the chemical bis (2-ethylhexyl)-2,3,4,5-tetrabromophthalate, chemical abstracts service number 26040-51-7, as of June 9, 2016.

(15) "TCEP" means the chemical (tris(2-chloroethyl)phosphate); chemical abstracts service number 115-96-8, as of June 9, 2016.

(16) "TCPP" means the chemical tris (1-chloro-2-propyl) phosphate); chemical abstracts service number 13674-84-5, as of June 9, 2016.

(17) "TDCPP" means the chemical (tris(1,3-dichloro-2-propyl)phosphate); chemical abstracts service number 13674-87-8, as of June 9, 2016.

(18) "Toy" means a product designed or intended by the manufacturer to be used by a child at play.

(19) "TPP" means the chemical triphenyl phosphate, chemical abstracts service number 115-86-6, as of June 9, 2016.

(20) "Trade association" means a membership organization of persons engaging in a similar or related line of commerce, organized to promote and improve business conditions in that line of commerce and not to engage in a regular business of a kind ordinarily carried on for profit.

(21) "V6" means the chemical bis(chloromethyl) propane-1,3-diyltetrakis (2-chloroethyl) bisphosphate, chemical abstracts service number 385051-10-4, as of June 9, 2016.

(22) "Very bioaccumulative" means having a bioconcentration factor or bioaccumulation factor greater than or equal to five thousand, or if neither are available, having a log Kow greater than 5.0.

(23) "Very persistent" means having a half-life greater than or equal to one of the following:

(a) A half-life in soil or sediment of greater than one hundred eighty days;

(b) A half-life greater than or equal to sixty days in water or evidence of long-range transport.

Sec. 1406. RCW 70.240.025 and 2016 c 176 s 2 are each amended to read as follows:

Beginning July 1, 2017, no manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state children's products or residential upholstered furniture, as defined in RCW 70.76.010 (as recodified by this act), containing any of the following flame retardants in amounts greater than one thousand parts per million in any product component:

(1) TDCPP;

(2) TCEP;

(3) Decabromodiphenyl ether;

(4) HBCD; or

(5) Additive TBBPA.

Sec. 1407. RCW 70.240.035 and 2016 c 176 s 3 are each amended to read as follows:

(1) The department shall consider whether the following flame retardants meet the criteria of a chemical of high concern for children:

(a) IPTPP;

(b) TBB;

(c) TBPH;

(d) TCPP;

(e) TPP;

(f) V6.

(2)(a) Within one year of the department adopting a rule that identifies a flame retardant in subsection (1) of this section as a chemical of high concern for children, the department of health, in consultation with the department, must create a stakeholder advisory committee for each flame retardant chemical to provide stakeholder input, expertise, and additional information in the development of recommendations as provided under subsection (4) of this section. All advisory committee meetings must be open to the public.

(b) The advisory committee membership must include, but is not limited to, representatives from: Large and small business sectors; community, environmental, and public health advocacy groups; local governments; affected and interested businesses; and public health agencies.

(c) The department may request state agencies and technical experts to participate. The department of health shall provide technical expertise on human health impacts including: Early childhood and fetal exposure, exposure reduction, and safer substitutes.

(3) When developing policy options and recommendations consistent with subsection (4) of this section, the department must rely on credible scientific evidence and consider information relevant to the hazards based on the quantitative extent of exposures to the chemical under its intended or reasonably anticipated conditions of use. The department of health, in consultation with the department, must include the following:

(a) Chemical name, properties, uses, and manufacturers;

(b) An analysis of available information on the production, unintentional production, uses, and disposal of the chemical;

(c) Quantitative estimates of the potential human and environmental exposures associated with the use and release of the chemical;

(d) An assessment of the potential impacts on human health and the environment resulting from the quantitative exposure estimates referred to in (c) of this subsection;

(e) An evaluation of:

(i) Environmental and human health benefits;

(ii) Economic and social impacts;

(iii) Feasibility;

(iv) Availability and effectiveness of safer substitutes for uses of the chemical;

(v) Consistency with existing federal and state regulatory requirements; and

(f) Recommendations for:

(i) Managing, reducing, and phasing out the different uses and releases of the chemical;

(ii) Minimizing exposure to the chemical;

(iii) Using safer substitutes; and

(iv) Encouraging the development of safer alternatives.

(4)(a) The department of health must submit to the legislature recommendations on policy options for reducing exposure, designating and developing safer substitutes, and restricting or prohibiting the use of the flame retardant chemicals identified in subsection (1) of this section as a chemical of high concern for children.

(b) When the department of health, in consultation with the department, determines that flame retardant chemicals identified in subsection (1) of this section as a chemical of high concern for children should be restricted or prohibited from use in children's products, residential upholstered furniture as defined in RCW 70.76.010 (as recodified by this act), or other commercial products or processes, the department of health must include citations of the peer-reviewed science and other sources of information reviewed and ultimately relied upon in support of the recommendation to restrict or prohibit the chemical.

Sec. 1408. RCW 70.240.040 and 2019 c 292 s 9 are each amended to read as follows:

A manufacturer of a children's product or a consumer product containing a priority chemical subject to a rule adopted to implement a determination made consistent with RCW 70.365.040(1)(b) (as recodified by this act), or a trade organization on behalf of its member manufacturers, shall provide notice to the department that the manufacturer's product contains a high priority chemical or a priority chemical identified under chapter 70.365 RCW (as recodified by this act). The notice must be filed annually with the department and must include the following information:

- (1) The name of the chemical used or produced and its chemical abstracts service registry number;
- (2) A brief description of the product or product component containing the substance;
- (3) A description of the function of the chemical in the product;
- (4) The amount of the chemical used in each unit of the product or product component. The amount may be reported in ranges, rather than the exact amount;
- (5) The name and address of the manufacturer and the name, address, and phone number of a contact person for the manufacturer; and
- (6) Any other information the manufacturer deems relevant to the appropriate use of the product.

Sec. 1409. RCW 70.240.050 and 2019 c 422 s 407 are each amended to read as follows:

(1) A manufacturer of products that are restricted under this chapter must notify persons that sell the manufacturer's products in this state about the provisions of this chapter no less than ninety days prior to the effective date of the restrictions.

(2) A manufacturer that produces, sells, or distributes a product prohibited from manufacture, sale, or distribution in this state under this chapter must recall the product and reimburse the retailer or any other purchaser for the product.

(3) A manufacturer of products in violation of this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70.105D.190 (as recodified by this act).

(4) Retailers who unknowingly sell products that are restricted from sale under this chapter are not liable under this chapter.

(5) The sale or purchase of any previously owned products containing a chemical restricted under this chapter made in casual or isolated sales as defined in RCW 82.04.040, or by a nonprofit organization, is exempt from this chapter.

Sec. 1410. RCW 70.260.010 and 2009 c 379 s 101 are each amended to read as follows:

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

- (1) "Customers" means residents, businesses, and building owners.
- (2) "Direct outreach" means:

(a) The use of door-to-door contact, community events, and other methods of direct interaction with customers to inform them of energy efficiency and weatherization opportunities; and

(b) The performance of energy audits.

(3) "Energy audit" means an assessment of building energy efficiency opportunities, from measures that require very little investment and without any disruption to building operation, normally involving general building operational measures, to low or relatively higher cost investment, such as installing timers to turn off equipment, replacing light bulbs, installing insulation, replacing equipment and appliances with higher efficiency equipment and appliances, and similar measures. The term includes an assessment of alternatives for generation of heat and power from renewable energy resources, including installation of solar water heating and equipment for photovoltaic electricity generation.

(4) "Energy efficiency and conservation block grant program" means the federal program created under the energy independence and security act of 2007 (P.L. 110-140).

(5) "Energy efficiency services" means energy audits, weatherization, energy efficiency retrofits, energy management systems as defined in RCW 39.35.030, and other activities to reduce a customer's energy consumption, and includes assistance with paperwork, arranging for financing, program design and development, and other postenergy audit assistance and education to help customers meet their energy savings goals.

(6) "Low-income individual" means an individual whose annual household income does not exceed eighty percent of the area median income for the metropolitan, micropolitan, or combined statistical area in which that individual resides as determined annually by the United States department of housing and urban development.

(7) "Sponsor" means any entity or group of entities that submits a proposal under RCW 70.260.020 (as recodified by this act), including but not limited to any nongovernmental nonprofit organization, local community action agency, tribal nation, community service agency, public service company, county, municipality, publicly owned electric, or natural gas utility.

(8) "Sponsor match" means the share, if any, of the cost of efficiency improvements to be paid by the sponsor.

(9) "Weatherization" means making energy and resource conservation and energy efficiency improvements.

Sec. 1411. RCW 70.270.030 and 2009 c 243 s 3 are each amended to read as follows:

(1) On and after January 1, 2011, a person who replaces or balances motor vehicle tires must replace lead wheel weights with environmentally preferred wheel weights on all vehicles when they replace or balance tires in Washington. However, the person may use alternatives to lead wheel weights that are determined by the department to not qualify as environmentally preferred wheel weights for up to two years following the date of that determination, but must thereafter use environmentally preferred wheel weights.

(2) A person who is subject to the requirement in subsection (1) of this section must recycle the lead wheel weights that they remove.

(3) A person who fails to comply with subsection (1) of this section is subject to penalties prescribed in RCW 70.270.050 (as recodified by this act). A violation of subsection (1) of this section occurs with respect to each vehicle for which lead wheel weights are not replaced in compliance with subsection (1) of this section.

(4) An owner of a vehicle is not subject to any requirement in this section.

Sec. 1412. RCW 70.270.040 and 2009 c 243 s 4 are each amended to read as follows:

(1) The department shall achieve compliance with RCW 70.270.030 through the enforcement sequence specified in this section.

(2) To provide assistance in identifying environmentally preferred wheel weights, the department shall, by October 1, 2010, prepare and distribute information regarding this chapter to the maximum extent practicable to:

(a) Persons that replace or balance motor vehicle tires in Washington; and

(b) Persons generally in the motor vehicle tire and wheel weight manufacturing, distribution, wholesale, and retail industries.

(3) The department shall issue a warning letter to a person who fails to comply with RCW 70.270.030 (as recodified by this act) and offer information or other appropriate assistance. If the person does not comply with RCW 70.270.030(1) (as recodified by this act) within one year of the department's issuance of the warning letter, the department may assess civil penalties under RCW 70.270.050 (as recodified by this act).

Sec. 1413. RCW 70.270.050 and 2019 c 422 s 408 are each amended to read as follows:

(1) An initial violation of RCW 70.270.030(1) (as recodified by this act) is punishable by a civil penalty not to exceed five hundred dollars. Subsequent violations of RCW 70.270.030(1) (as recodified by this act) are punishable by civil penalties not to exceed one thousand dollars for each violation.

(2) Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70.105D.190 (as recodified by this act).

Sec. 1414. RCW 70.275.020 and 2014 c 119 s 2 are each reenacted and amended to read as follows:

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

(1) "Brand" means a name, symbol, word, or mark that identifies a product, rather than its components, and attributes the product to the owner of the brand as the producer.

(2) "Collection" or "collect" means, except for persons involved in mail-back programs:

(a) The activity of accumulating any amount of mercury-containing lights at a location other than the location where the lights are used by covered entities, and includes curbside collection activities, household hazardous waste facilities, and other registered drop-off locations; and

(b) The activity of transporting mercury-containing lights in the state, where the transporter is not a generator of unwanted mercury-containing lights, to a location for purposes of accumulation.

(3) "Covered entities" means:

(a) A household generator or other person who purchases mercury-containing lights at retail and delivers no more than ten mercury-containing lights to registered collectors for a product stewardship program on any given day; and

(b) A household generator or other person who purchases mercury-containing lights at retail and utilizes a registered residential curbside collection program or a mail-back program for collection of mercury-containing lights and discards no more than fifteen mercury-containing lights into those programs on any given day.

(4) "Department" means the department of ecology.

(5) "Environmental handling charge" or "charge" means the charge approved by the department to be applied to each mercury-containing light to be sold at retail in or into Washington state. The environmental handling charge must cover all administrative and operational costs associated with the product stewardship program, including the fee for the department's administration and enforcement.

(6) "Final disposition" means the point beyond which no further processing takes place and materials from mercury-containing lights have been transformed for direct use as a feedstock in producing new products, or disposed of or managed in permitted facilities.

(7) "Hazardous substances" or "hazardous materials" means those substances or materials identified by rules adopted under chapter 70.105 RCW (as recodified by this act).

(8) "Mail-back program" means the use of a prepaid postage container with mercury vapor barrier packaging that is used for the collection and recycling of mercury-containing lights from covered entities as part of a product stewardship program and is transported by the United States postal service or a common carrier.

(9) "Mercury-containing lights" means lamps, bulbs, tubes, or other devices that contain mercury and provide functional illumination in homes, businesses, and outdoor stationary fixtures.

(10) "Mercury vapor barrier packaging" means sealable containers that are specifically designed for the storage, handling, and transport of mercury-containing lights in order to prevent the escape of mercury into the environment by volatilization or any other means, and that meet the requirements for transporting by the United States postal service or a common carrier.

(11) "Orphan product" means a mercury-containing light that lacks a producer's brand, or for which the producer is no longer in business and has no successor in interest, or that bears a brand for which the department cannot identify an owner.

(12) "Person" means a sole proprietorship, partnership, corporation, nonprofit corporation or organization, limited liability company, firm, association, cooperative, or other legal entity located within or outside Washington state.

(13) "Processing" means recovering materials from unwanted products for use as feedstock in new products. Processing must occur at permitted facilities.

(14) "Producer" means a person that:

(a) Has or had legal ownership of the brand, brand name, or cobrand of a mercury-containing light sold in or into Washington state, unless the brand

owner is a retailer whose mercury-containing light was supplied by another producer participating in a stewardship program under this chapter;

(b) Imports or has imported mercury-containing lights branded by a producer that meets the requirements of (a) of this subsection and where that producer has no physical presence in the United States;

(c) If (a) and (b) of this subsection do not apply, makes or made a mercury-containing light that is sold or has been sold in or into Washington state; or

(d)(i) Sells or sold at wholesale or retail a mercury-containing light; (ii) does not have legal ownership of the brand; and (iii) elects to fulfill the responsibilities of the producer for that product.

(15) "Product stewardship" means a requirement for a producer of mercury-containing lights to manage and reduce adverse safety, health, and environmental impacts of the product throughout its life cycle, including financing and providing for the collection, transporting, reusing, recycling, processing, and final disposition of their products.

(16) "Product stewardship plan" or "plan" means a detailed plan describing the manner in which a product stewardship program will be implemented.

(17) "Product stewardship program" or "program" means the methods, systems, and services financed in the manner provided for under RCW 70.275.050 (as recodified by this act) and provided by producers of mercury-containing lights generated by covered entities that addresses product stewardship and includes arranging for the collection, transportation, recycling, processing, and final disposition of unwanted mercury-containing lights, including orphan products.

(18) "Recovery" means the collection and transportation of unwanted mercury-containing lights under this chapter.

(19)(a) "Recycling" means transforming or remanufacturing unwanted products into usable or marketable materials for use other than landfill disposal or incineration.

(b) "Recycling" does not include energy recovery or energy generation by means of combusting unwanted products with or without other waste.

(20) "Reporting period" means the period commencing January 1st and ending December 31st in the same calendar year.

(21) "Residuals" means nonrecyclable materials left over from processing an unwanted product.

(22) "Retailer" means a person who offers mercury-containing lights for sale at retail through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or the internet, but does not include a sale that is a wholesale transaction with a distributor or a retailer.

(23)(a) "Reuse" means a change in ownership of a mercury-containing light or its components, parts, packaging, or shipping materials for use in the same manner and purpose for which it was originally purchased, or for use again, as in shipping materials, by the generator of the shipping materials.

(b) "Reuse" does not include dismantling of products for the purpose of recycling.

(24) "Stakeholder" means a person who may have an interest in or be affected by a product stewardship program.

(25) "Stewardship organization" means an organization designated by a producer or group of producers to act as an agent on behalf of each producer to operate a product stewardship program.

(26) "Unwanted product" means a mercury-containing light no longer wanted by its owner or that has been abandoned, discarded, or is intended to be discarded by its owner.

Sec. 1415. RCW 70.275.030 and 2014 c 119 s 3 are each amended to read as follows:

(1) Every producer of mercury-containing lights sold in or into Washington state for retail sale in Washington state must participate in a product stewardship program for those products, operated by a stewardship organization and financed in the manner provided by RCW 70.275.050 (as recodified by this act). Every such producer must inform the department of the producer's participation in a product stewardship program by including the producer's name in a plan submitted to the department by a stewardship organization as required by RCW 70.275.040 (as recodified by this act). Producers must satisfy these participation obligations individually or may do so jointly with other producers.

(2) A stewardship organization operating a product stewardship program must pay all administrative and operational costs associated with its program with revenues received from the environmental handling charge described in RCW 70.275.050 (as recodified by this act). The stewardship organization's administrative and operational costs are not required to include a collection location's cost of receiving, accumulating and storing, and packaging mercury-containing lights. However, a stewardship organization may offer incentives or payments to collectors. The stewardship organization's administrative and operational costs do not include the collection costs associated with curbside and mail-back collection programs. The stewardship organization must arrange for collection service at locations described in subsection (4) of this section, which may include household hazardous waste facilities, charities, retailers, government recycling sites, or other suitable private locations. No such entity is required to provide collection services at their location. For curbside and mail-back programs, a stewardship organization must pay the costs of transporting mercury-containing lights from accumulation points and for processing mercury-containing lights collected by curbside and mail-back programs. For collection locations, including household hazardous waste facilities, charities, retailers, government recycling sites, or other suitable private locations, a stewardship organization must pay the costs of packaging and shipping materials as required under RCW 70.275.070 (as recodified by this act) or must compensate collectors for the costs of those materials, and must pay the costs of transportation and processing of mercury-containing lights collected from the collection locations.

(3) Product stewardship programs shall collect unwanted mercury-containing lights delivered from covered entities for recycling, processing, or final disposition, and not charge a fee when lights are dropped off or delivered into the program.

(4) Product stewardship programs shall provide, at a minimum, no cost services in all cities in the state with populations greater than ten thousand and all counties of the state on an ongoing, year-round basis.

(5) Product stewardship programs shall promote the safe handling and recycling of mercury-containing lights to the public, including producing and offering point-of-sale educational materials to retailers of mercury-containing lights and point-of-return educational materials to collection locations.

(6) All product stewardship programs operated under approved plans must recover their fair share of unwanted covered products as determined by the department.

(7) The department or its designee may inspect, audit, or review audits of processing and disposal facilities used to fulfill the requirements of a product stewardship program.

(8) No product stewardship program required under this chapter may use federal or state prison labor for processing unwanted products.

(9) Product stewardship programs for mercury-containing lights must be fully implemented by January 1, 2015.

Sec. 1416. RCW 70.275.040 and 2017 c 254 s 2 are each amended to read as follows:

(1) On June 1st of the year prior to implementation, each producer must ensure that a stewardship organization submits a proposed product stewardship plan on the producer's behalf to the department for approval. Plans approved by the department must be implemented by January 1st of the following calendar year.

(2) The department shall establish rules for plan content. Plans must include but are not limited to:

(a) All necessary information to inform the department about the plan operator and participating producers and their brands;

(b) The management and organization of the product stewardship program that will oversee the collection, transportation, and processing services;

(c) The identity of collection, transportation, and processing service providers, including a description of the consideration given to existing residential curbside collection infrastructure and mail-back systems as an appropriate collection mechanism;

(d) How the product stewardship program will seek to use businesses within the state, including transportation services, retailers, collection sites and services, existing curbside collection services, existing mail-back services, and processing facilities;

(e) A description of how the public will be informed about the product stewardship program, including how consumers will be provided with information describing collection opportunities for unwanted mercury-containing lights from covered entities and safe handling of mercury-containing lights, waste prevention, and recycling. The description must also include information to make consumers aware that an environmental handling charge has been added to the purchase price of mercury-containing lights sold at retail to fund the mercury-containing light stewardship programs in the state. The environmental handling charge may not be described as a department recycling fee or charge at the point of retail sale;

(f) A description of the financing system required under RCW 70.275.050 (as recodified by this act);

(g) How mercury and other hazardous substances will be handled for collection through final disposition;

(h) A public review and comment process; and

(i) Any other information deemed necessary by the department to ensure an effective mercury light product stewardship program that is in compliance with all applicable laws and rules.

(3) All plans submitted to the department must be made available for public review on the department's web site and at the department's headquarters.

(4) At least two years from the start of the product stewardship program and once every four years thereafter, each stewardship organization operating a product stewardship program must update its product stewardship plan and submit the updated plan to the department for review and approval according to rules adopted by the department.

(5) By June 1, 2016, and each June 1st thereafter, each stewardship organization must submit an annual report to the department describing the results of implementing the stewardship organization's plan for the prior calendar year, including an independent financial audit once every two years. The department may adopt rules for reporting requirements. Financial information included in the annual report must include but is not limited to:

(a) The amount of the environmental handling charge assessed on mercury-containing lights and the revenue generated;

(b) Identification of confidential information pursuant to RCW 43.21A.160 submitted in the annual report; and

(c) The cost of the mercury-containing lights product stewardship program, including line item costs for:

(i) Program operations;

(ii) Communications, including media, printing and fulfillment, public relations, and other education and outreach projects;

(iii) Administration, including administrative personnel costs, travel, compliance and auditing, legal services, banking services, insurance, and other administrative services and supplies, and stewardship organization corporate expenses; and

(iv) Amount of unallocated reserve funds.

(6) Beginning in 2023 every stewardship organization must include in its annual report an analysis of the percent of total sales of lights sold at retail to covered entities in Washington that mercury-containing lights constitute, the estimated number of mercury-containing lights in use by covered entities in the state, and the projected number of unwanted mercury-containing lights to be recycled in future years.

(7) All plans and reports submitted to the department must be made available for public review, excluding sections determined to be confidential pursuant to RCW 43.21A.160, on the department's web site and at the department's headquarters.

Sec. 1417. RCW 70.275.050 and 2017 c 254 s 1 are each amended to read as follows:

(1) Each stewardship organization must recommend to the department an environmental handling charge to be added to the price of each mercury-containing light sold in or into the state of Washington for sale at retail. The environmental handling charge must be designed to provide revenue necessary and sufficient to cover all administrative and operational costs associated with the stewardship program described in the department-approved product

stewardship plan for that organization, including the department's annual fee required by subsection (5) of this section, and a prudent reserve. The stewardship organization must consult with collectors, retailers, recyclers, and each of its participating producers in developing its recommended environmental handling charge. The environmental handling charge may, but is not required to, vary by the type of mercury-containing light. In developing its recommended environmental handling charge, the stewardship organization must take into consideration and report to the department:

(a) The anticipated number of mercury-containing lights that will be sold to covered entities in the state at retail during the relevant period;

(b) The number of unwanted mercury-containing lights delivered from covered entities expected to be recycled during the relevant period;

(c) The operational costs of the stewardship organization as described in RCW 70.275.030(2) (as recodified by this act);

(d) The administrative costs of the stewardship organization including the department's annual fee, described in subsection (5) of this section; and

(e) The cost of other stewardship program elements including public outreach.

(2) The department must review, adjust if necessary, and approve the stewardship organization's recommended environmental handling charge within sixty days of submittal. In making its determination, the department shall review the product stewardship plan and may consult with the producers, the stewardship organization, retailers, collectors, recyclers, and other entities.

(3) No sooner than January 1, 2015:

(a) The mercury-containing light environmental handling charge must be added to the purchase price of all mercury-containing lights sold to Washington retailers for sale at retail, and each Washington retailer shall add the charge to the purchase price of all mercury-containing lights sold at retail in this state, and the producer shall remit the environmental handling charge to the stewardship organization in the manner provided for in the stewardship plan; or

(b) Each Washington retailer must add the mercury-containing light environmental handling charge to the purchase price of all mercury-containing lights sold at retail in this state, where the retailer, by voluntary binding agreement with the producer, arranges to remit the environmental handling charge to the stewardship organization on behalf of the producer in the manner provided for in the stewardship plan. Producers may not require retailers to opt for this provision via contract, marketing practice, or any other means. The stewardship organization must allow retailers to retain a portion of the environmental handling charge as reimbursement for any costs associated with the collection and remittance of the charge.

(4) At any time, a stewardship organization may submit to the department a recommendation for an adjusted environmental handling charge for the department's review, adjustment, if necessary, and approval under subsection (2) of this section to ensure that there is sufficient revenue to fund the cost of the program, current deficits, or projected needed reserves for the next year. The department must review the stewardship organization's recommended environmental handling charge and must adjust or approve the recommended charge within thirty days of submittal if the department determines that the

charge is reasonably designed to meet the criteria described in subsection (1) of this section.

(5) Beginning March 1, 2015, and each year thereafter, each stewardship organization shall pay to the department an annual fee equivalent to three thousand dollars for each participating producer to cover the department's administrative and enforcement costs. The amount paid under this section must be deposited into the product stewardship programs account created in RCW 70.275.130 (as recodified by this act).

Sec. 1418. RCW 70.275.160 and 2010 c 130 s 16 are each amended to read as follows:

Nothing in this chapter changes the requirements of any entity regulated under chapter 70.105 RCW (as recodified by this act) to comply with the requirements under that chapter.

Sec. 1419. RCW 70.280.040 and 2010 c 140 s 4 are each amended to read as follows:

(1) A manufacturer, wholesaler, or retailer that ~~((manufacturers [manufacturers]))~~ manufactures, knowingly sells, or distributes products in violation of this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers, wholesalers, or retailers who are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the ~~((state))~~ model toxics control operating account created in RCW ~~((70.105D.070))~~ 70.105D.190 (as recodified by this act).

(2) Retailers who unknowingly sell products that are restricted from sale under this chapter are not subject to the civil penalties under this chapter.

Sec. 1420. RCW 70.280.050 and 2019 c 422 s 410 are each amended to read as follows:

Expenses to cover the cost of administering this chapter must be paid from the model toxics control operating account under RCW 70.105D.190 (as recodified by this act).

Sec. 1421. RCW 70.285.020 and 2011 c 171 s 111 are each amended to read as follows:

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

(1) "Accredited laboratory" means a laboratory that is:

(a) Qualified and equipped for testing of products, materials, equipment, and installations in accordance with national or international standards; and

(b) Accredited by a third-party organization approved by the department to accredit laboratories for purposes of this chapter.

(2) "Alternative brake friction material" means brake friction material that:

(a) Does not contain:

(i) More than 0.5 percent copper or its compounds by weight;

(ii) The constituents identified in RCW 70.285.030 (as recodified by this act) at or above the concentrations specified; and

(iii) Other materials determined by the department to be more harmful to human health or the environment than existing brake friction material;

(b) Enables motor vehicle brakes to meet applicable federal safety standards, or if no federal safety standard exists, a widely accepted industry standard;

(c) Is available at a cost and quantity that does not cause significant financial hardship across the majority of brake friction material and vehicle manufacturing industries; and

(d) Is available to enable brake friction material and vehicle manufacturers to produce viable products meeting consumer expectations regarding braking noise, shuddering, and durability.

(3) "Brake friction material" means that part of a motor vehicle brake designed to retard or stop the movement of a motor vehicle through friction against a rotor made of more durable material.

(4) "Committee" means the brake friction material advisory committee.

(5) "Department" means the department of ecology.

(6)(a) "Motor vehicle" has the same meaning as defined in RCW 46.04.320 that are subject to registration requirements under RCW (~~46.16A.030~~) 46.16A.080.

(b) "Motor vehicle" does not include:

(i) Motorcycles as defined in RCW 46.04.330;

(ii) Motor vehicles employing internal closed oil immersed motor vehicle brakes or similar brake systems that are fully contained and emit no debris or fluid under normal operating conditions;

(iii) Military combat vehicles;

(iv) Race cars, dual-sport vehicles, or track day vehicles, whose primary use is for off-road purposes and are permitted under RCW 46.16A.320; or

(v) Collector vehicles, as defined in RCW 46.04.126.

(7)(a) "Motor vehicle brake" means an energy conversion mechanism used to retard or stop the movement of a motor vehicle.

(b) "Motor vehicle brake" does not include brakes designed primarily to hold motor vehicles stationary and not for use while motor vehicles are in motion.

(8) "Original equipment service" means brake friction material provided as service parts originally designed for and using the same brake friction material formulation sold with a new motor vehicle.

(9) "Small volume motor vehicle manufacturer" means a manufacturer of motor vehicles with Washington annual sales of less than one thousand new passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, and heavy-duty engines based on the average number of vehicles sold for the three previous consecutive model years.

Sec. 1422. RCW 70.285.040 and 2010 c 147 s 4 are each amended to read as follows:

(1) By December 1, 2015, the department shall review risk assessments, scientific studies, and other relevant analyses regarding alternative brake friction material and determine whether the material may be available. The department shall consider any new science with regard to the bioavailability and toxicity of copper.

(2) If the department finds that alternative brake friction material may be available, it shall convene a brake friction material advisory committee. The committee shall include, but is not limited to:

- (a) A representative of the department, who will chair the committee;
- (b) The chief of the Washington state patrol, or the chief's designee;
- (c) A representative of manufacturers of brake friction material;
- (d) A representative of manufacturers of motor vehicles;
- (e) A representative of a nongovernmental organization concerned with motor vehicle safety;
- (f) A representative of the national highway traffic safety administration; and
- (g) A representative of a nongovernmental organization concerned with the environment.

(3) If convened pursuant to subsection (2) of this section, the committee shall separately assess alternative brake friction material for passenger vehicles, light-duty vehicles, and heavy-duty vehicles. The committee shall make different recommendations to the department as to whether alternative brake friction material is available or unavailable for passenger vehicles, light-duty vehicles, and heavy-duty vehicles. For purposes of this section, "heavy-duty vehicle" means a vehicle used for commercial purposes with a gross vehicle weight rating above twenty-six thousand pounds. The committee shall also consider appropriate exemptions including original equipment service and brake friction material manufactured prior to the dates specified in RCW 70.285.050 (as recodified by this act). The department shall consider the committee's recommendations and make a finding as to whether alternative brake friction material is available or unavailable.

(4) If, pursuant to subsection (3) of this section, the department finds that alternative brake friction material:

- (a) Is available, it shall comply with RCW 70.285.050 (as recodified by this act);
- (b) Is not available, it shall periodically evaluate the finding and, if it determines that alternative brake friction material may be available, comply with subsections (2) and (3) of this section. If the department finds that alternative brake friction material is available, it shall comply with RCW 70.285.050 (as recodified by this act).

Sec. 1423. RCW 70.285.050 and 2017 c 204 s 2 are each amended to read as follows:

If, pursuant to RCW 70.285.040 (as recodified by this act), the department finds that alternative brake friction material is available:

(1)(a) By December 31st of the year in which the finding is made, the department shall publish the information required by RCW 70.285.040 (as recodified by this act) in the Washington State Register and present it in a report to the appropriate committees of the legislature; and

(b) The report must include recommendations for exemptions on original equipment service and brake friction material manufactured prior to dates specified in this section and may include recommendations for other exemptions.

(2) Beginning January 1, 2025, and consistent with RCW 70.285.030(3) (as recodified by this act), no manufacturer, wholesaler, retailer, or distributor may sell or offer for sale brake friction material in Washington state containing more than 0.5 percent copper and its compounds by weight, as specified in the report in subsection (1) of this section.

Sec. 1424. RCW 70.285.090 and 2019 c 422 s 409 are each amended to read as follows:

(1) The department must enforce this chapter. The department may periodically purchase and test brake friction material sold or offered for sale in Washington state to verify that the material complies with this chapter.

(2) Enforcement of this chapter by the department must rely on notification and information exchange between the department and manufacturers, distributors, and retailers. The department must issue one warning letter by certified mail to a manufacturer, distributor, or retailer that sells or offers to sell brake friction material in violation of this chapter, and offer information or other appropriate assistance regarding compliance with this chapter. Once a warning letter has been issued to a distributor or retailer for violations under subsections (3) and (5) of this section, the department need not provide warning letters for subsequent violations by that distributor or retailer. For the purposes of subsection (6) of this section, a warning letter serves as notice of the violation. If compliance is not achieved, the department may assess penalties under this section.

(3) A brake friction material distributor or retailer that violates this chapter is subject to a civil penalty not to exceed ten thousand dollars for each violation. Brake friction material distributors or retailers that sell brake friction material that is packaged consistent with RCW 70.285.080(2)(b) (as recodified by this act) are not in violation of this chapter. However, if the department conclusively proves that the brake friction material distributor or retailer was aware that the brake friction material being sold violates RCW 70.285.030 or 70.285.050 (as recodified by this act), the brake friction material distributor or retailer is subject to civil penalties according to this section.

(4) A brake friction material manufacturer that knowingly violates this chapter must recall the brake friction material and reimburse the brake friction distributor, retailer, or any other purchaser for the material and any applicable shipping and handling charges for returning the material. A brake friction material manufacturer that violates this chapter is subject to a civil penalty not to exceed ten thousand dollars for each violation.

(5) A motor vehicle distributor or retailer that violates this chapter is subject to a civil penalty not to exceed ten thousand dollars for each violation. A motor vehicle distributor or retailer is not in violation of this chapter for selling a vehicle that was previously sold at retail and that contains brake friction material failing to meet the requirements of this chapter. However, if the department conclusively proves that the motor vehicle distributor or retailer installed brake friction material that violates RCW 70.285.030, 70.285.050, or 70.285.080(2)(b) (as recodified by this act) on the vehicle being sold and was aware that the brake friction material violates RCW 70.285.030, 70.285.050, or 70.285.080(2)(b) (as recodified by this act), the motor vehicle distributor or retailer is subject to civil penalties under this section.

(6) A motor vehicle manufacturer that violates this chapter must notify the registered owner of the vehicle within six months of knowledge of the violation and must replace at no cost to the owner the noncompliant brake friction material with brake friction material that complies with this chapter. A motor vehicle manufacturer that fails to provide the required notification to registered owners of the affected vehicles within six months of knowledge of the violation

is subject to a civil penalty not to exceed one hundred thousand dollars. A motor vehicle manufacturer that fails to provide the required notification to registered owners of the affected vehicles after twelve months of knowledge of the violation is subject to a civil penalty not to exceed ten thousand dollars per vehicle. For purposes of this section, "motor vehicle manufacturer" does not include a vehicle dealer defined under RCW 46.70.011 and required to be licensed as a vehicle dealer under chapter 46.70 RCW.

(7) Before the effective date of the prohibitions in RCW 70.285.030 or 70.285.050 (as recodified by this act), the department must prepare and distribute information about the prohibitions to manufacturers, distributors, and retailers to the maximum extent practicable.

(8) All penalties collected under this chapter must be deposited in the model toxics control operating account created in RCW 70.105D.190 (as recodified by this act).

Sec. 1425. RCW 70.300.040 and 2019 c 422 s 411 are each amended to read as follows:

(1) The department must enforce the requirements of this chapter.

(2)(a) A person or entity that violates this chapter is subject to a civil penalty. The department may assess and collect a civil penalty of up to ten thousand dollars per day per violation.

(b) All penalties collected by the department under this chapter must be deposited in the model toxics control operating account created in RCW 70.105D.190 (as recodified by this act).

Sec. 1426. RCW 70.310.030 and 2013 c 51 s 3 are each amended to read as follows:

(1) Effective January 1, 2014, it is unlawful to manufacture, wholesale, or distribute for sale an asbestos-containing building material that is not labeled as required by RCW 70.310.040 (as recodified by this act) or as required under federal law, 40 C.F.R. part 763, subpart I, Sec. 173.171 (1994). The labeling requirement also applies to stock-on-hand, meaning any asbestos-containing building material in their possession or control after December 31, 2013, must be labeled. Retailers that do not manufacture, wholesale, or distribute asbestos-containing building materials are exempt from this chapter.

(2)(a) Subsection (1) of this section does not apply to asbestos-containing building materials that have already been installed, applied, or used by the consumer.

(b) Subsection (1) of this section does not apply to asbestos-containing building materials used solely for United States military purposes.

(3) Any manufacturer, wholesaler, or distributor may submit a written request for an exemption from the labeling requirements of this chapter, and the department may grant such an exemption if it determines that the labeling requirements are technically infeasible or create an undue economic hardship. Each exemption is in effect for a period not to exceed three years from the date issued and is subject to the terms and conditions prescribed by the department.

Sec. 1427. RCW 70.310.040 and 2013 c 51 s 4 are each amended to read as follows:

(1) A label must be placed in a prominent location adjacent to the product name or description on the exterior of the wrapping and packaging in which the asbestos-containing building material is placed for storage, shipment, and sale.

(2) A label must also be placed on the exterior surface of the asbestos-containing building material itself unless it is sold as a liquid or paste, is sand or gravel, or an exemption is granted pursuant to RCW 70.310.030(3) (as recodified by this act).

(3) Asbestos-containing building materials must have a legible label that clearly identifies it as containing asbestos. The department may adopt rules regarding the implementation of this chapter. At a minimum, the label must state the following:

CAUTION!

This product contains ASBESTOS which is known to cause cancer and lung disease. Avoid creating dust. Intentionally removing or tampering with this label is a violation of state law.

(4) It is unlawful for any person to remove, deface, cover, or otherwise obscure or tamper with a label or sticker that has been applied in compliance with this section, unless the asbestos-containing building material is in the possession of the end user.

Sec. 1428. RCW 70.310.050 and 2013 c 51 s 5 are each amended to read as follows:

(1) The provisions of this chapter may be enforced by the department, local air authorities, or their designees.

(2) A person found in violation of this chapter is subject to the penalties provided under RCW 70.94.431 (as recodified by this act).

Sec. 1429. RCW 70.315.010 and 2013 c 127 s 1 are each amended to read as follows:

(1) The legislature finds that historically governmental and nongovernmental water purveyors have played two key public service roles: Providing safe drinking water and providing water for fire protection. This dual function approach is a deeply embedded and state-regulated feature of water system planning, engineering, operation, and maintenance. This dual function enables purveyors to provide these critical public services in a cost-effective way that protects public health and safety, promotes economic development, and supports appropriate land use planning.

(2) The legislature finds that the provision of integrated, dual function water facilities and services benefits all customers of a purveyor, similar to other benefits provided to water system customers in response to regulation regarding safe drinking water such as treatment and water quality monitoring.

(3) The legislature finds that water purveyors plan, construct, acquire, operate, and maintain fire suppression water facilities in response to regulatory requirements, including without limitation the public water system coordination act, RCW 70.116.080 (as recodified by this act), the design of public water systems and water system operations requirements, chapter 246-290 WAC, Parts 3 and 5, the state building code, chapter 19.27 RCW, and the international fire code. The availability of infrastructure and water to fight fires allows for the

development and habitability of property, increases property values, and benefits customers and property through lower casualty insurance rates.

(4) The legislature finds that recent Washington supreme court decisions, including *Lane v. City of Seattle*, 164 Wn.2d 875 (2008), and *City of Tacoma v. City of Bonney Lake, et al.*, 173 Wn.2d 584 (2012), have created uncertainty and confusion as to the role, responsibilities, cost allocation, and recovery authority of water purveyors. If left unresolved, the absence of legal clarity will adversely affect the availability and condition of fire suppression infrastructure necessary to protect life and property.

(5) It is the legislature's intent to determine appropriate methods of organizing public services and the authority of water purveyors with respect to critical public services. The legislature further intends this chapter to clarify the authority of water purveyors to provide fire suppression water facilities and services and to recover the costs for those facilities and services. The legislature also intends to provide liability protections appropriate for water purveyors engaged in this vital public service.

Sec. 1430. RCW 70.315.020 and 2013 c 127 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) "Fire suppression water facilities" means water supply transmission and distribution facilities, interties, pipes, valves, control systems, lines, storage, pumps, fire hydrants, and other facilities, or any part thereof, used or usable for the delivery of water for fire suppression purposes.

(2) "Fire suppression water services" or "services" means operation and maintenance of fire suppression water facilities and the delivery of water for fire suppression purposes.

(3) "Municipal corporation" means any city, town, county, water-sewer district, port district, public utility district, irrigation district, and any other municipal corporation, quasi-municipal corporation, or political subdivision of the state.

(4) "Purveyor" has the same meaning as set forth in RCW 70.116.030(4) (as recodified by this act).

Sec. 1431. RCW 70.315.050 and 2013 c 127 s 5 are each amended to read as follows:

A county is not required to pay for fire suppression water facilities or services except: (1) As a customer of a purveyor; (2) in areas where a county is acting as a purveyor; or (3) where a county has agreed to do so consistent with RCW 70.315.040 (as recodified by this act).

Sec. 1432. RCW 70.325.020 and 2014 c 74 s 2 are each amended to read as follows:

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

(1) "Account" means the diesel idle reduction account created in RCW 70.325.040 (as recodified by this act).

(2) "Department" means the department of ecology.

(3) "Loan recipient" means a state, local, or other governmental entity that owns diesel vehicles or equipment.

Sec. 1433. RCW 70.325.040 and 2014 c 74 s 4 are each amended to read as follows:

The diesel idle reduction account is created in the state treasury. All receipts from remittances made by loan recipients pursuant to RCW 70.325.030 (as recodified by this act) and any moneys appropriated to the account by law must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of this chapter, including the costs of program administration.

Sec. 1434. RCW 70.325.050 and 2014 c 74 s 7 are each amended to read as follows:

The department may adopt rules necessary to implement this chapter only after the legislature appropriates moneys to the account created in RCW 70.325.040 (as recodified by this act).

Sec. 1435. RCW 70.340.020 and 2016 c 161 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) "Agency" means the Washington state pollution liability insurance agency.

(2) "Local government" means any political subdivision of the state, including a town, city, county, special purpose district, or other municipal corporation.

(3) "Operator" means any person in control of, or having responsibility for, the daily operation of a petroleum underground storage tank system.

(4) "Owner" means any person who owns a petroleum underground storage tank system.

(5) "Petroleum underground storage tank system" means an underground storage tank system regulated under chapter 90.76 RCW (as recodified by this act) or subtitle I of the solid waste disposal act (42 U.S.C. chapter 82, subchapter IX) that is used for storing petroleum.

(6) "Release" has the same meaning as defined in RCW 70.105D.020 (as recodified by this act).

(7) "Remedial action" has the same meaning as defined in RCW 70.105D.020 (as recodified by this act).

(8) "Underground storage tank facility" means the location where one or more underground storage tank systems are installed. A facility encompasses all contiguous real property under common ownership associated with the operation of the underground storage tank system or systems.

(9) "Underground storage tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any, and includes any aboveground ancillary equipment connected to the underground storage tank or piping, such as dispensers.

Sec. 1436. RCW 70.340.030 and 2016 c 161 s 3 are each amended to read as follows:

(1) The agency shall establish an underground storage tank revolving loan and grant program to provide loans or grants to owners or operators to:

(a) Conduct remedial actions in accordance with chapter 70.105D RCW (as recodified by this act), including investigations and cleanups of any release or

threatened release of a hazardous substance at or affecting an underground storage tank facility, provided that at least one of the releases or threatened releases involves petroleum;

(b) Upgrade, replace, or permanently close a petroleum underground storage tank system in accordance with chapter 90.76 RCW (as recodified by this act) or subtitle I of the solid waste disposal act (42 U.S.C., chapter 82, subchapter IX), as applicable;

(c) Install new infrastructure or retrofit existing infrastructure at an underground storage tank facility for dispensing renewable or alternative energy for motor vehicles, including electric vehicle charging stations, when conducted in conjunction with either (a) or (b) of this subsection; or

(d) Install and subsequently remove a temporary petroleum aboveground storage tank system in compliance with applicable laws, when conducted in conjunction with either (a) or (b) of this subsection.

(2) The maximum amount that may be loaned or granted under this program to an owner or operator for a single underground storage tank facility is two million dollars.

Sec. 1437. RCW 70.340.040 and 2016 c 161 s 4 are each amended to read as follows:

(1) A recipient of a loan or grant may not use these funds to conduct remedial actions of a release or threatened release from a petroleum underground storage tank system requiring financial assurances under chapter 90.76 RCW (as recodified by this act) or subtitle I of the solid waste disposal act (42 U.S.C., chapter 82, subchapter IX) unless the owner or operator:

(a) Agrees to first expend all moneys available under the required financial assurances;

(b) Demonstrates that all moneys available under the required financial assurances have been expended; or

(c) Demonstrates that a claim has been made under the required financial assurances and the claim has been rejected by the provider.

(2) A recipient must use a loan or grant for a project that develops and acquires assets that have a useful life of at least thirteen years.

Sec. 1438. RCW 70.340.050 and 2016 c 161 s 5 are each amended to read as follows:

The agency shall partner and enter into a memorandum of agreement with the department of health to implement the revolving loan and grant program.

(1) The agency shall select loan and grant recipients and manage the work conducted under RCW 70.340.030(1) (as recodified by this act).

(2) The department of health shall administer the loans and grants to qualified recipients as determined by the agency.

(3) The department of health may collect, from persons requesting financial assistance, loan origination fees to cover costs incurred by the department of health in operating the financial assistance program.

(4) The agency may use the moneys in the pollution liability insurance agency underground storage tank revolving account to fund the department of health's operating costs for the program.

Sec. 1439. RCW 70.340.060 and 2016 c 161 s 6 are each amended to read as follows:

(1) The agency may conduct remedial actions and investigate or clean up a release or threatened release of a hazardous substance at or affecting an underground storage tank facility if the following conditions are met:

(a) The owner or operator received a loan or grant for the underground storage tank facility under the revolving program created in this chapter for two million dollars or less;

(b) The remedial actions are conducted in accordance with the rules adopted under chapter 70.105D RCW (as recodified by this act);

(c) The owner of real property subject to the remedial actions provides consent for the agency to:

(i) Recover the remedial action costs from the owner; and

(ii) Enter upon the real property to conduct remedial actions limited to those authorized by the owner or operator. Remedial actions must be focused on maintaining the economic vitality of the property. The agency or the agency's authorized representatives shall give reasonable notice before entering property unless an emergency prevents the notice; and

(d) The owner of the underground storage tank facility consents to the agency filing a lien on the underground storage tank facility to recover the agency's remedial action costs.

(2) The agency may conduct the remedial actions authorized under subsection (1) of this section using the moneys in the pollution liability insurance agency underground storage tank revolving account, as required under RCW 70.340.050 (as recodified by this act). However, for any remedial action where the owner or operator has received a loan or grant, the agency may not expend more than the difference between the amount loaned or granted and two million dollars.

(3) The agency may request informal advice and assistance and written opinions on the sufficiency of remedial actions from the department of ecology under RCW ~~((70.105D.030(1)(i)))~~ 70.105D.180 (as recodified by this act).

Sec. 1440. RCW 70.340.080 and 2016 c 161 s 8 are each amended to read as follows:

(1) The pollution liability insurance agency underground storage tank revolving account is created in the state treasury. All receipts from sources identified under subsection (2) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for items identified under subsection (3) of this section.

(2) The following receipts must be deposited into the account:

(a) All moneys appropriated by the legislature to pay for the agency's operating costs to carry out the purposes of this chapter;

(b) All moneys appropriated by the legislature to provide loans and grants under RCW 70.340.030 (as recodified by this act);

(c) Any repayment of loans provided under RCW 70.340.030 (as recodified by this act);

(d) All moneys appropriated by the legislature to conduct remedial actions under RCW 70.340.060 (as recodified by this act);

(e) Any recovery of the costs of remedial actions conducted under RCW 70.340.060 (as recodified by this act);

(f) Any grants provided by the federal government to the agency to achieve the purposes of this chapter; and

(g) Any other deposits made from a public or private entity to achieve the purposes of this chapter.

(3) Moneys in the account may be used by the agency only to carry out the purposes of this chapter including, but not limited to:

(a) The costs of the agency and department of health to carry out the purposes of this chapter;

(b) Loans and grants under RCW 70.340.030 (as recodified by this act);

(c) Remedial actions under RCW 70.340.060 (as recodified by this act); and

(d) State match requirements for grants provided to the agency by the federal government.

Sec. 1441. RCW 70.340.090 and 2016 c 161 s 9 are each amended to read as follows:

By September 1st of each even-numbered year, the agency must provide the office of financial management and the appropriate legislative committees a report on the agency's activities supported by expenditures from the pollution liability insurance agency underground storage tank revolving account. The report must at a minimum include:

(1) The amount of money the legislature appropriated from the pollution liability insurance agency underground storage tank revolving account under RCW 70.340.080 (as recodified by this act) during the last biennium;

(2) For the previous biennium, the total number of loans and grants, the amounts loaned or granted, sites cleaned up, petroleum underground storage tank systems upgraded, replaced, or permanently closed, and jobs preserved;

(3) For each loan and grant awarded during the previous biennium, the name of the recipient, the location of the underground storage tank facility, a description of the project and its status, the amount loaned, and the amount repaid;

(4) For each underground storage tank facility where the agency conducted remedial actions under RCW 70.340.060 (as recodified by this act) during the previous biennium, the name and location of the site, the amount of money used to conduct the remedial actions, the status of remedial actions, whether liens were filed against the underground storage tank facility under RCW 70.340.070 (as recodified by this act), and the amount of money recovered; and

(5) The operating costs of the agency and department of health to carry out the purposes of this chapter during the last biennium.

Sec. 1442. RCW 70.340.100 and 2016 c 161 s 10 are each amended to read as follows:

The agency must adopt rules under chapter 34.05 RCW necessary to carry out the provisions of this chapter. To accelerate remedial actions, the agency shall enter into a memorandum of agreement with the department of health under RCW 70.340.050 (as recodified by this act) within one year of July 1, 2016. To ensure the adoption of rules will not delay the award of a loan or grant, the agency may implement the underground storage tank revolving program through interpretative guidance pending adoption of rules.

Sec. 1443. RCW 70.340.120 and 2016 c 161 s 12 are each amended to read as follows:

Nothing in this chapter limits the authority of the department of ecology under chapter 70.105D RCW (as recodified by this act).

Sec. 1444. RCW 70.340.130 and 2017 3rd sp.s. c 4 s 6015 are each amended to read as follows:

(1) On July 1, 2016, if the cash balance amount in the pollution liability insurance program trust account exceeds seven million five hundred thousand dollars after excluding the reserves under RCW 70.148.020(2) (as recodified by this act), the state treasurer shall transfer the amount exceeding seven million five hundred thousand dollars, up to a transfer of ten million dollars, from the pollution liability insurance program trust account into the pollution liability insurance agency underground storage tank revolving account. If ten million dollars is not available to be transferred on July 1, 2016, then by the end of fiscal year 2017, if the cash balance amount in the pollution liability insurance program trust account exceeds seven million five hundred thousand dollars after excluding the reserves under RCW 70.148.020(2) (as recodified by this act), the state treasurer shall transfer the amount exceeding seven million five hundred thousand dollars from the pollution liability insurance program trust account into the pollution liability insurance agency underground storage tank revolving account. The total amount transferred in fiscal year 2017 from the pollution liability insurance program trust account into the pollution liability insurance agency underground storage tank revolving account may not exceed ten million dollars.

(2) On July 1, 2017, and every two years thereafter at the start of each successive biennium, if the cash balance amount in the pollution liability insurance program trust account exceeds seven million five hundred thousand dollars, the state treasurer shall transfer the amount exceeding seven million five hundred thousand dollars after excluding the reserves under RCW 70.148.020(2) (as recodified by this act), up to a transfer of twenty million dollars, from the pollution liability insurance program trust account into the pollution liability insurance agency underground storage tank revolving account. If twenty million dollars is not available to be transferred at the beginning of the first fiscal year of the biennium, by the end of the subsequent fiscal year, if the cash balance amount in the pollution liability insurance program trust account exceeds seven million five hundred thousand dollars after excluding the reserves under RCW 70.148.020(2) (as recodified by this act), the state treasurer shall transfer the amount exceeding seven million five hundred thousand dollars from the pollution liability insurance program trust account into the pollution liability insurance agency underground storage tank revolving account. The total amount transferred in a biennium from the pollution liability insurance program trust account into the pollution liability insurance agency underground storage tank revolving account may not exceed twenty million dollars.

Sec. 1445. RCW 70.340.900 and 2016 c 161 s 13 are each amended to read as follows:

(1) RCW 70.340.010 through 70.340.120 (as recodified by this act) expire July 1, 2030.

(2) The expiration of RCW 70.340.010 through 70.340.120 (as recodified by this act) does not terminate any of the following rights, obligations, authorities or any provision necessary to carry out:

(a) The repayment of loans due and payable to the lender or the state of Washington;

(b) The resolution of any cost recovery action or the initiation of any action or other collection process to recover defaulted loan moneys due to the state of Washington; and

(c) The resolution of any action or the initiation of any action to recover the agency's remedial actions costs under RCW 70.340.070 (as recodified by this act).

(3) On July 1, 2030, the pollution liability insurance agency underground storage tank revolving account and all moneys due that account revert to, and accrue to the benefit of, the department of health.

Sec. 1446. RCW 70.360.060 and 2019 c 265 s 6 are each amended to read as follows:

(1)(a) A manufacturer or supplier of food service products or film products that meet ASTM standard specification D6400 or ASTM standard specification D6868 must ensure that the items are readily and easily identifiable from other plastic food service products or plastic film products in a manner that is consistent with the federal trade commission guides.

(b) Film bags are exempt from the requirements of this section, and are instead subject to the requirements of RCW 70.360.050 (as recodified by this act).

(2) For the purposes of this section, "readily and easily identifiable" products must:

(a) Be labeled with a logo indicating the product has been certified by a recognized third-party independent verification body as meeting the ASTM standard specification;

(b) Be labeled with the word "compostable," where possible, indicating the food packaging or film product has been tested by a recognized third-party independent body and meets the ASTM standard specification; and

(c) Meet industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities.

(3) A compostable product described in subsection (1) of this section must be considered compliant with the requirements of this section if it:

(a) Has green or brown labeling;

(b) Is labeled as compostable; and

(c) Uses distinctive color schemes, green or brown color striping, or other adopted symbols, colors, marks, or design patterns that help differentiate compostable items from noncompostable materials.

(4) It is encouraged that each product described in subsection (1) of this section:

(a) Display labeling language via printing, embossing, or compostable adhesive stickers using, when possible, either the colors green or brown that contrast with background product color for easy identification; or

(b) Be tinted green or brown.

(5) Graphic elements are encouraged to increase legibility of the word "compostable" and overall product distinction that may include text boxes, stripes, bands, or a green or brown tint of the product.

(6) A manufacturer or supplier is required to comply with this section only to the extent that the labeling requirements do not conflict with the federal trade commission guides.

Sec. 1447. RCW 70.360.070 and 2019 c 265 s 7 are each amended to read as follows:

A manufacturer or supplier of film products or food service products sold, offered for sale, or distributed for use in Washington that does not meet the applicable ASTM standard specifications provided in RCW 70.360.050 and 70.360.060 (as recodified by this act) is:

(1) Prohibited from using tinting, labeling, and terms that are required of products that meet the applicable ASTM standard specifications under RCW 70.360.050 and 70.360.060 (as recodified by this act);

(2) Discouraged from using coloration, labeling, images, and terms that confuse consumers into believing that noncompostable bags and food service packaging are compostable; and

(3) Encouraged to use coloration, labeling, images, and terms to help consumers identify noncompostable bags and food service packaging as either: (a) Suitable for recycling; or (b) necessary to dispose as waste.

Sec. 1448. RCW 70.360.090 and 2019 c 265 s 9 are each amended to read as follows:

(1) The state, acting through the attorney general, and cities and counties have concurrent authority to enforce this chapter and to collect civil penalties for a violation of this chapter, subject to the conditions in this section. An enforcing government entity may impose a civil penalty in the amount of up to two thousand dollars for the first violation of this chapter, up to five thousand dollars for the second violation of this chapter, and up to ten thousand dollars for the third and any subsequent violation of this chapter. If a manufacturer or supplier has paid a prior penalty for the same violation to a different government entity with enforcement authority under this subsection, the penalty imposed by a government entity is reduced by the amount of the payment.

(2) Any civil penalties collected pursuant to this section must be paid to the office of the city attorney, city prosecutor, district attorney, or attorney general, whichever office brought the action. Penalties collected by the attorney general on behalf of the state must be deposited in the compostable products revolving account created in RCW 70.360.110 (as recodified by this act).

(3) The remedies provided by this section are not exclusive and are in addition to the remedies that may be available pursuant to chapter 19.86 RCW or other consumer protection laws, if applicable.

(4) In addition to penalties recovered under this section, the enforcing government entity may recover reasonable enforcement costs and attorneys' fees from the liable manufacturer or supplier.

Sec. 1449. RCW 70.360.100 and 2019 c 265 s 10 are each amended to read as follows:

Manufacturers and suppliers who violate the requirements of this chapter are subject to civil penalties described in RCW 70.360.090 (as recodified by this act). A specific violation is deemed to have occurred upon the sale of noncompliant product by stock-keeping unit number or unique item number. The repeated sale of the same noncompliant product by stock-keeping unit number or

unique item number is considered a single violation. A city, county, or the state must send a written notice and a copy of the requirements to a noncompliant manufacturer or supplier of an alleged violation, who will have ninety days to become compliant. A city, county, or the state may assess a first penalty if the manufacturer or supplier has not met the requirements ninety days following the date the notification was sent. A city, county, or the state may impose second, third, and subsequent penalties on a manufacturer or supplier that remains noncompliant with the requirements of this chapter for every month of noncompliance.

Sec. 1450. RCW 70.360.110 and 2019 c 265 s 11 are each amended to read as follows:

The compostable products revolving account is created in the custody of the state treasurer. All receipts from civil penalties or other amounts recovered by the state in enforcement actions under RCW 70.360.090 (as recodified by this act) must be deposited in the account. Expenditures from the account must be used by the attorney general for the payment of costs, expenses, and charges incurred in the enforcement of this chapter. Only the attorney general or the attorney general'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. 1451. RCW 70.365.010 and 2019 c 292 s 1 are each reenacted and amended to read as follows:

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

(1) "Consumer product" means any item, including any component parts and packaging, sold for residential or commercial use.

(2) "Department" means the department of ecology.

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

(4) "Electronic product" includes personal computers, audio and video equipment, calculators, wireless phones, game consoles, and handheld devices incorporating a video screen that are used to access interactive software, and the peripherals associated with such products.

(5) "Inaccessible electronic component" means a part or component of an electronic product that is located inside and entirely enclosed within another material and is not capable of coming out of the product or being accessed during any reasonably foreseeable use or abuse of the product.

(6) "Manufacturer" means any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a product or is an importer or domestic distributor of a product sold or offered for sale in or into the state.

(7) "Organohalogen" means a class of chemicals that includes any chemical containing one or more halogen elements bonded to carbon.

(8) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS chemicals" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(9) "Phenolic compounds" means alkylphenol ethoxylates and bisphenols.

(10) "Phthalates" means synthetic chemical esters of phthalic acid.

(11) "Polychlorinated biphenyls" or "PCBs" means chemical forms that consist of two benzene rings joined together and containing one to ten chlorine atoms attached to the benzene rings.

(12) "Priority chemical" means a chemical or chemical class used as, used in, or put in a consumer product including:

- (a) Perfluoroalkyl and polyfluoroalkyl substances;
- (b) Phthalates;
- (c) Organohalogen flame retardants;
- (d) Flame retardants, as identified by the department under chapter 70.240

RCW (as recodified by this act);

- (e) Phenolic compounds;
- (f) Polychlorinated biphenyls; or
- (g) A chemical identified by the department as a priority chemical under RCW 70.365.020 (as recodified by this act).

(13) "Safer alternative" means an alternative that is less hazardous to humans or the environment than the existing chemical or chemical process. A safer alternative to a particular chemical may include a chemical substitute or a change in materials or design that eliminates the need for a chemical alternative.

(14) "Sensitive population" means a category of people that is identified by the department that may be or is disproportionately or more severely affected by priority chemicals, such as:

- (a) Men and women of childbearing age;
- (b) Infants and children;
- (c) Pregnant women;
- (d) Communities that are highly impacted by toxic chemicals;
- (e) Persons with occupational exposure; and
- (f) The elderly.

(15) "Sensitive species" means a species or grouping of animals that is identified by the department that may be or is disproportionately or more severely affected by priority chemicals, such as:

- (a) Southern resident killer whales;
- (b) Salmon; and
- (c) Forage fish.

Sec. 1452. RCW 70.365.020 and 2019 c 292 s 2 are each amended to read as follows:

Every five years, and consistent with the timeline established in RCW 70.365.050 (as recodified by this act), the department, in consultation with the department of health, must report to the appropriate committees of the legislature its decision to designate at least five priority chemicals that meet at least one of the following:

(1) The chemical or a member of a class of chemicals are identified by the department as a:

(a) High priority chemical of high concern for children under chapter 70.240 RCW (as recodified by this act); or

(b) Persistent, bioaccumulative toxin under chapter 70.105 RCW (as recodified by this act);

(2) The chemical or members of a class of chemicals are regulated:

(a) In consumer products under chapter 70.240, 70.76, 70.95G, 70.280, 70.285, 70.95M, or 70.75A RCW (as recodified by this act); or

(b) As a hazardous substance under chapter 70.105 or 70.105D RCW (as recodified by this act); or

(3) The department determines the chemical or members of a class of chemicals are a concern for sensitive populations and sensitive species after considering the following factors:

(a) A chemical's or members of a class of chemicals' hazard traits or environmental or toxicological endpoints;

(b) A chemical's or members of a class of chemicals' aggregate effects;

(c) A chemical's or members of a class of chemicals' cumulative effects with other chemicals with the same or similar hazard traits or environmental or toxicological endpoints;

(d) A chemical's or members of a class of chemicals' environmental fate;

(e) The potential for a chemical or members of a class of chemicals to degrade, form reaction products, or metabolize into another chemical or a chemical that exhibits one or more hazard traits or environmental or toxicological endpoints, or both;

(f) The potential for the chemical or class of chemicals to contribute to or cause adverse health or environmental impacts;

(g) The chemical's or class of chemicals' potential impact on sensitive populations, sensitive species, or environmentally sensitive habitats;

(h) Potential exposures to the chemical or members of a class of chemicals based on:

(i) Reliable information regarding potential exposures to the chemical or members of a class of chemicals; and

(ii) Reliable information demonstrating occurrence, or potential occurrence, of multiple exposures to the chemical or members of a class of chemicals.

Sec. 1453. RCW 70.365.030 and 2019 c 292 s 3 are each amended to read as follows:

(1) Every five years, and consistent with the timeline established in RCW 70.365.050 (as recodified by this act), the department, in consultation with the department of health, shall identify priority consumer products that are a significant source of or use of priority chemicals. The department must submit a report to the appropriate committees of the legislature at the time that it identifies a priority consumer product.

(2) When identifying priority consumer products under this section, the department must consider, at a minimum, the following criteria:

(a) The estimated volume of a priority chemical or priority chemicals added to, used in, or present in the consumer product;

(b) The estimated volume or number of units of the consumer product sold or present in the state;

(c) The potential for exposure to priority chemicals by sensitive populations or sensitive species when the consumer product is used, disposed of, or has decomposed;

(d) The potential for priority chemicals to be found in the outdoor environment, with priority given to surface water, groundwater, marine waters, sediments, and other ecologically sensitive areas, when the consumer product is used, disposed of, or has decomposed;

(e) If another state or nation has identified or taken regulatory action to restrict or otherwise regulate the priority chemical in the consumer product;

(f) The availability and feasibility of safer alternatives; and

(g) Whether the department has already identified the consumer product in a chemical action plan completed under chapter 70.105 RCW (as recodified by this act) as a source of a priority chemical or other reports or information gathered under chapter 70.240, 70.76, 70.95G, 70.280, 70.285, 70.95M, or 70.75A RCW (as recodified by this act).

(3) The department is not required to give equal weight to each of the criteria in subsection (2)(a) through (g) of this section when identifying priority consumer products that use or are a significant source of priority chemicals.

(4) To assist with identifying priority consumer products under this section and making determinations as authorized under RCW 70.365.040 (as recodified by this act), the department may request a manufacturer to submit a notice to the department that contains the information specified in RCW 70.240.040 (1) through (6) (as recodified by this act) or other information relevant to subsection (2)(a) through (d) of this section. The manufacturer must provide the notice to the department no later than six months after receipt of such a demand by the department.

(5)(a) Except as provided in (b) of this subsection, the department may not identify the following as priority consumer products under this section:

(i) Plastic shipping pallets manufactured prior to 2012;

(ii) Food or beverages;

(iii) Tobacco products;

(iv) Drug or biological products regulated by the United States food and drug administration;

(v) Finished products certified or regulated by the federal aviation administration or the department of defense, or both, when used in a manner that was certified or regulated by such agencies, including parts, materials, and processes when used to manufacture or maintain such regulated or certified finished products;

(vi) Motorized vehicles, including on and off-highway vehicles, such as all-terrain vehicles, motorcycles, side-by-side vehicles, farm equipment, and personal assistive mobility devices; and

(vii) Chemical products used to produce an agricultural commodity, as defined in RCW 17.21.020.

(b) The department may identify the packaging of products listed in (a) of this subsection as priority consumer products.

(6) For an electronic product identified by the department as a priority consumer product under this section, the department may not make a regulatory determination under RCW 70.365.040 (as recodified by this act) to restrict or require the disclosure of a priority chemical in an inaccessible electronic component of the electronic product.

Sec. 1454. RCW 70.365.040 and 2019 c 292 s 4 are each amended to read as follows:

(1) Every five years, and consistent with the timeline established in RCW 70.365.050 (as recodified by this act), the department, in consultation with the department of health, must determine regulatory actions to increase transparency and to reduce the use of priority chemicals in priority consumer products. The department must submit a report to the appropriate committees of the legislature at the time that it determines regulatory actions. The department may:

(a) Determine that no regulatory action is currently required;

(b) Require a manufacturer to provide notice of the use of a priority chemical or class of priority chemicals consistent with RCW 70.240.040 (as recodified by this act); or

(c) Restrict or prohibit the manufacture, wholesale, distribution, sale, retail sale, or use, or any combination thereof, of a priority chemical or class of priority chemicals in a consumer product.

(2)(a) The department may order a manufacturer to submit information consistent with RCW 70.365.030(4) (as recodified by this act).

(b) The department may require a manufacturer to provide:

(i) A list of products containing priority chemicals;

(ii) Product ingredients;

(iii) Information regarding exposure and chemical hazard; and

(iv) A description of the amount and the function of the high priority chemical in the product.

(3) The department may restrict or prohibit a priority chemical or members of a class of priority chemicals in a priority consumer product when it determines:

(a) Safer alternatives are feasible and available; and

(b)(i) The restriction will reduce a significant source of or use of a priority chemical; or

(ii) The restriction is necessary to protect the health of sensitive populations or sensitive species.

(4) When determining regulatory actions under this section, the department may consider, in addition to the criteria pertaining to the selection of priority chemicals and priority consumer products that are specified in RCW 70.365.020 and 70.365.030 (as recodified by this act), whether:

(a) The priority chemical or members of a class of priority chemicals are functionally necessary in the priority consumer product; and

(b) A restriction would be consistent with regulatory actions taken by another state or nation on a priority chemical or members of a class of priority chemicals in a product.

(5) A restriction or prohibition on a priority chemical in a consumer product may include exemptions or exceptions, including exemptions to address existing stock of a product in commerce at the time that a restriction takes effect.

Sec. 1455. RCW 70.365.050 and 2019 c 292 s 5 are each amended to read as follows:

(1)(a) By June 1, 2020, and consistent with RCW 70.365.030 (as recodified by this act), the department shall identify priority consumer products that are a significant source of or use of priority chemicals specified in RCW 70.365.010(12) (a) through (f) (as recodified by this act).

(b) By June 1, 2022, and consistent with RCW 70.365.040 (as recodified by this act), the department must determine regulatory actions regarding the priority chemicals and priority consumer products identified in (a) of this subsection.

(c) By June 1, 2023, the department must adopt rules to implement regulatory actions determined under (b) of this subsection.

(2)(a) By June 1, 2024, and every five years thereafter, the department shall select at least five priority chemicals specified in RCW 70.365.010(12) (a)

through (g) (as recodified by this act) that are identified consistent with RCW 70.365.020 (as recodified by this act).

(b) By June 1, 2025, and every five years thereafter, the department must identify priority consumer products that contain any new priority chemicals after notifying the appropriate committees of the legislature, consistent with RCW 70.365.030 (as recodified by this act).

(c) By June 1, 2027, and every five years thereafter, the department must determine regulatory actions for any priority chemicals in priority consumer products identified under (b) of this subsection, consistent with RCW 70.365.040 (as recodified by this act).

(d) By June 1, 2028, and every five years thereafter, the department must adopt rules to implement regulatory actions identified under (c) of this subsection.

(3)(a) The designation of priority chemicals by the department does not take effect until the adjournment of the regular legislative session immediately following the identification of chemicals, in order to allow an opportunity for the legislature to add to, limit, or otherwise amend the list of priority chemicals to be considered by the department.

(b) The designation of priority consumer products by the department does not take effect until the adjournment of the regular legislative session immediately following the identification of priority consumer products, in order to allow an opportunity for the legislature to add to, limit, or otherwise amend the list of priority consumer products to be considered by the department.

(c) The determination of regulatory actions by the department does not take effect until the adjournment of the regular legislative session immediately following the determination by the department, in order to allow an opportunity for the legislature to add to, limit, or otherwise amend the regulatory determinations by the department.

(d) Nothing in this subsection (3) limits the authority of the department to:

(i) Begin to identify priority consumer products for a priority chemical prior to the effective date of the designation of a priority chemical;

(ii) Begin to consider possible regulatory actions prior to the effective date of the designation of a priority consumer product; or

(iii) Initiate a rule-making process prior to the effective date of a determination of a regulatory action.

(4)(a) When identifying priority chemicals and priority consumer products under this chapter, the department must notify the public of the selection, including the identification of the peer-reviewed science and other sources of information that the department relied upon, the basis for the selection, and a draft schedule for making determinations. The notice must be published in the Washington State Register. The department shall provide the public with an opportunity for review and comment on the regulatory determinations.

(b)(i) By June 1, 2020, the department must create a stakeholder advisory process to provide expertise, input, and a review of the department's rationale for identifying priority chemicals and priority consumer products and proposed regulatory determinations. The input received from a stakeholder process must be considered and addressed when adopting rules.

(ii) The stakeholder process must include, but is not limited to, representatives from: Large and small business sectors; community,

environmental, and public health advocacy groups; local governments; affected and interested businesses; an expert in scientific data analysis; and public health agencies.

Sec. 1456. RCW 70.365.070 and 2019 c 292 s 7 are each amended to read as follows:

(1) A manufacturer violating a requirement of this chapter, a rule adopted under this chapter, or an order issued under this chapter, is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense.

(2) Any penalty provided for in this section, and any order issued by the department under this chapter, may be appealed to the pollution control hearings board.

(3) All penalties collected under this chapter shall be deposited in the ~~((state))~~ model toxics control operating account created in RCW ~~((70.105D.070))~~ 70.105D.190 (as recodified by this act).

Sec. 1457. RCW 70.365.080 and 2019 c 292 s 8 are each amended to read as follows:

(1) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

(2)(a) The department must adopt rules to implement the determinations of regulatory actions specified in RCW 70.365.040(1) (b) or (c) (as recodified by this act). When proposing or adopting rules to implement regulatory determinations specified in this subsection, the department must identify the expected costs and benefits of the proposed or adopted rules to state agencies to administer and enforce the rules and to private persons or businesses, by category of type of person or business affected.

(b) A rule adopted to implement a regulatory determination involving a restriction on the manufacture, wholesale, distribution, sale, retail sale, or use of a priority consumer product containing a priority chemical may take effect no sooner than three hundred sixty-five days after the adoption of the rule.

(c) Each rule adopted to implement a determination of regulatory action specified in RCW 70.365.040(1) (b) or (c) (as recodified by this act) is a significant legislative rule for purposes of RCW 34.05.328. The department must prepare a small business economic impact statement consistent with the requirements of RCW 19.85.040 for each rule to implement a determination of a regulatory action specified in RCW 70.365.040(1) (b) or (c) (as recodified by this act).

Sec. 1458. RCW 70.375.020 and 2019 c 344 s 2 are each amended to read as follows:

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

(1)(a) "Architectural paint" or "paint" means interior and exterior architectural coatings, sold in a container of five gallons or less.

(b) "Architectural paint" or "paint" does not mean industrial coatings, original equipment coatings, or specialty coatings.

(2) "Architectural paint stewardship assessment" or "assessment" means the amount determined by a stewardship organization that must be added to the

purchase price of architectural paint sold in this state to cover a stewardship organization's costs of administration, education and outreach, collecting, transporting, and processing of the leftover architectural paint managed through a statewide architectural paint stewardship program.

(3) "Conditionally exempt small quantity generator" means a dangerous waste generator whose dangerous wastes are not subject to regulation under chapter 70.105 RCW (as recodified by this act), hazardous waste management, solely because the waste is generated or accumulated in quantities below the threshold for regulation and meets the conditions prescribed in WAC (~~(173-303-070(8)(b))~~) 173-303-171(1), as it existed on July 28, 2019.

(4) "Conditionally exempt small quantity generator waste" means dangerous waste generated by a conditionally exempt small quantity generator.

(5) "Consumer" includes any household, nonprofit, small business, or other entity whose leftover paint is eligible under applicable laws and regulations.

(6) "Covered entity" means any: (a) Household; (b) conditionally exempt small quantity generator of leftover oil-based and latex architectural paint; or (c) generator of dangerous waste as defined in RCW 70.105.010 (as recodified by this act) that brings leftover architectural latex paint to a paint program collection site operating under an approved Washington state paint stewardship plan.

(7) "Curbside service" means a waste collection, recycling, and disposal service providing pickup of leftover architectural paint from residential sources, such as single-family households and multifamily housing, or other covered entities in quantities generated from households or conditionally exempt small quantity generators, provided by a solid waste collection company regulated under chapter 81.77 RCW or under a contract for solid waste services with any city or town.

(8) "Department" means the department of ecology.

(9) "Distributor" means a person that has a contractual relationship with one or more manufacturers to market and sell architectural paint to retailers in Washington.

(10) "End-of-life" or "end-of-life management" means activities including, but not limited to, collection, transportation, reuse, recycling, energy recovery, and disposal for leftover architectural paint.

(11) "Energy recovery" means the recovery of energy in a useable form from mass burning or refuse-derived fuel incineration, pyrolysis, or any other means of using the heat of combustion of solid waste that involves high temperature (above twelve hundred degrees Fahrenheit) processing.

(12) "Environmentally sound management practices" means practices that comply with all applicable laws and rules to protect workers, public health, and the environment, provide for adequate recordkeeping, tracking and documenting the fate of materials within the state and beyond, and include environmental liability coverage for the stewardship organization.

(13) "Final disposition" means the point beyond which no further processing takes place and the paint has been transformed for direct use as a feedstock in producing new products or is disposed of, including for energy recovery, in permitted facilities.

(14) "Household hazardous waste" means waste that exhibits any of the properties of dangerous waste that is exempt from regulation under chapter

70.105 RCW (as recodified by this act) solely because the waste is generated by households. Household hazardous waste may also include other solid waste identified in the local hazardous waste management plan prepared pursuant to chapter 70.105 RCW (as recodified by this act).

(15) "Leftover paint" or "leftover architectural paint" means architectural paint not used and no longer wanted by a consumer.

(16) "Moderate risk waste" means solid waste that is limited to conditionally exempt small quantity generator waste and household hazardous waste as defined in this chapter.

(17) "Paint retailer" means any person that offers architectural paint for sale at retail in Washington.

(18) "Person" includes any individual, business, manufacturer, transporter, collector, processor, retailer, charity, nonprofit organization, or government agency.

(19) "Producer" means a manufacturer of architectural paint that is sold, offered for sale, or distributed in Washington under the producer's own name or other brand name.

(20) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal, energy recovery, or incineration. Recycling does not include collection, compacting, repacking, and sorting for the purpose of transport.

(21) "Reuse" means any operation by which an architectural paint product changes ownership and is used for the same purpose for which it was originally purchased.

(22) "Sell" or "sale" means any transfer of title for consideration, including remote sales conducted through sales outlets, catalogues, or the internet or any other similar electronic means.

(23) "Stewardship organization" means a nonprofit organization created by a producer or group of producers to implement a paint stewardship program required under this chapter.

(24) "Urban cluster" means areas of population density of two thousand five hundred to fifty thousand, as defined by the United States census bureau.

(25) "Urbanized area" means areas of high population density with populations of fifty thousand or greater, as defined by the United States census bureau.

Sec. 1459. RCW 70.375.040 and 2019 c 344 s 4 are each amended to read as follows:

(1) A stewardship organization representing producers shall submit a plan for the implementation of a paint stewardship program to the department for approval by May 30, 2020, or within one year of July 28, 2019, whichever comes later. The plan must include the following components:

(a) A description of how the program proposed under the plan will collect, transport, recycle, and process leftover paint from covered entities for end-of-life management, including reuse, recycling, energy recovery, and disposal, using environmentally sound management practices;

(b) Stewardship organization contact information and a list of participating brands and producers under the program;

(c) A demonstration of sufficient funding for the architectural paint stewardship program as described in the plan. The plan must include a funding

mechanism whereby each architectural paint producer remits to the stewardship organization payment of an architectural paint stewardship assessment for each container of architectural paint the producer sells in this state, unless the distributor or paint retailer has negotiated a voluntary agreement with the producer and stewardship organization to remit the architectural paint stewardship assessment directly to the stewardship organization on behalf of the producer for the producer's architectural paint sold by the distributor or paint retailer in the state. The plan must include a proposed budget and a description of the process used to determine the architectural paint stewardship assessment. The architectural paint stewardship assessment must be added to the cost of all architectural paint sold to Washington paint retailers and distributors, unless the distributor or paint retailer has negotiated an agreement voluntarily with the producer and stewardship organization to remit the assessment directly to the stewardship organization on behalf of the producer for the producer's architectural paint sold by the distributor or paint retailer in the state. Each Washington paint retailer or distributor must add the assessment to the purchase price of all architectural paint sold in this state. Manufacturers may not require retailers to opt to participate in a voluntary remittance agreement;

(d) The establishment in the plan of a uniform architectural paint stewardship assessment for all architectural paint sold in this state, in order to ensure that the funding mechanism is equitable and sustainable. For purposes of establishing the assessment, the plan must categorize the sizes of paint containers sold at retail and determine a uniform assessment amount that applies to each category of container size. The architectural paint stewardship assessment must be sufficient to recover the costs of the architectural paint stewardship program. With the exception of the annual administration costs paid to the department under RCW 70.375.060(4) (as recodified by this act), the department may not control or have spending authority related to the funds received by the stewardship organization from the assessment. Funds received by the stewardship organization are not state funds and are not eligible to be transferred for other state purposes in an appropriations act. The plan must require that any surplus funds generated from the funding mechanism that exceed a reserve greater than the most recent year's operating expenditures be put back into the program to either increase and improve program services or reduce the cost of the program and the architectural paint stewardship assessment, or both;

(e) A review by an independent financial auditor of the proposed architectural paint stewardship assessment to ensure that any added cost to paint sold in the state as a result of the paint stewardship program does not exceed the costs of the program. In a report to the department, the independent auditor must verify that the amount added to each unit of paint will cover the costs of the paint stewardship program;

(f) Assignment to the department of responsibility for the approval of the architectural paint stewardship assessment based on the information provided in the plan and the auditor's report;

(g) A description of the educational outreach strategy to reduce the generation of leftover paint, to promote the reuse and recycling of leftover paint, for the overall collection of leftover paint, and for the proper end-of-life

management of leftover paint. The strategies may be revised by a stewardship organization based on the information collected annually;

(h) A description of the reasonably convenient and available statewide collection system, including:

(i) A description of how the program will provide for reasonably convenient and available statewide collection of leftover paint from covered entities in urban and rural areas of the state, including island communities;

(ii) A description of how the program will incorporate existing public and private waste collection services and facilities for activities, which may include, but is not limited to:

(A) The reuse or processing of leftover architectural paint at the permanent collection site; and

(B) The collection, transportation, and recycling or proper disposal of leftover architectural paint;

(i) A description of how leftover paint will be managed using environmentally sound management practices, including reasonably following the paint waste management hierarchy of: Source reduction; reuse; recycling; energy recovery; and disposal;

(j) A description of education and outreach efforts to promote the paint stewardship program. The education and outreach efforts must include strategies for reaching all sectors of the population and describe how the paint stewardship program will evaluate the effectiveness of its education and outreach;

(k) A description of collection site procedural manuals for architectural paint products, including training procedures and electronic copies of materials that will be provided to collection sites; and

(l) A list of transporters that will be used to manage leftover paint collected by the stewardship organization and a list of potential processors to be used for final disposition.

(2)(a) To ensure adequate collection coverage, the plan must use geographic information modeling and the information required under subsection (1)(h) of this section to determine the number and distribution of collection sites based on the following criteria: At least ninety percent of Washington residents must have a permanent collection site within a fifteen-mile radius; and unless otherwise approved by the department, one additional permanent site must be established for every thirty thousand residents of an urbanized area and for every urban cluster of at least thirty thousand residents distributed to provide convenient and reasonably equitable access for residents within each.

(b) For the portion of the population that does not have a permanent collection location within a fifteen-mile radius, the plan must provide residents a reasonable opportunity to drop off leftover paint at collection events. The stewardship organization, in consultation with the department and the local community, will determine a reasonable frequency and location of these collection events, to be held in underserved areas. Special consideration is to be made for providing opportunities to island and geographically isolated populations.

(3)(a) Nothing in subsection (2) of this section prohibits a program plan from identifying an available curbside service for a specific area or population that provides convenient and reasonably equitable access for Washington

residents that is at least equivalent to the level of convenience and access that would be provided by a collection site.

(b) A fee may not be charged at the time the unwanted paint is delivered or collected for management. However, this subsection (3)(b) does not prohibit collectors providing curbside services from charging customers a fee, as provided by city contract or by the Washington utilities and transportation commission under the authority of chapter 81.77 RCW, for the additional collection cost of providing this service.

(4) The program plan must utilize the existing public and private waste collection services and facilities where cost-effective and mutually agreeable.

(5) The program must utilize existing paint retail stores as collection sites where cost-effective and mutually agreeable.

(6) The plan must provide the collection site name and location of each site statewide in Washington accepting architectural paint under the program.

(7) A stewardship organization shall promote a paint stewardship program and provide consumers, covered entities, and paint retailers with educational and informational materials describing collection opportunities for leftover paint statewide, the architectural paint stewardship assessment used to finance the program, and promotion of waste prevention, reuse, and recycling. These materials may include, but are not limited to, the following:

(a) Signage that is prominently displayed and easily visible to the consumer;

(b) Written materials and templates of materials for reproduction by paint retailers to be provided to the consumer at the time of purchase or delivery, or both;

(c) Advertising or other promotional materials, or both, that include references to the architectural paint stewardship program; and

(d) An explanation that the architectural paint stewardship assessment has been added to the purchase price of architectural paint to fund the paint stewardship program in the state. The architectural paint stewardship assessment may not be described as a department recycling fee at the point of retail.

(8) A stewardship organization must submit a new plan or plan amendment to the department for approval when there is a change to the amount of the assessment, if required by the department, or every five years, if the department deems it necessary.

Sec. 1460. RCW 70.375.050 and 2019 c 344 s 5 are each amended to read as follows:

(1) Each stewardship organization shall submit a paint stewardship program plan in accordance with RCW 70.375.040 (as recodified by this act).

(2) Each stewardship organization shall develop and distribute a collection site procedural manual to collection sites to help ensure proper management of architectural paints at collection locations.

(3) A stewardship organization shall implement the paint stewardship program plan by November 30, 2020, or within six months after approval of a paint stewardship program plan under RCW 70.375.040 (as recodified by this act), whichever is later.

(4) A stewardship organization shall submit an annual report by October 15, 2020, or a later date agreed to by the department, structured to be used as a basis for annual plan review by the department. The report must be based on the requirements outlined in RCW 70.375.080 (as recodified by this act).

(5) A stewardship organization shall work with producers, distributors, paint retailers, and local governments to provide consumers with educational and informational materials describing collection opportunities for leftover paint statewide and promotion of waste prevention, reuse, and recycling of leftover paint.

(6) A stewardship organization shall pay an annual administrative fee, described in RCW 70.375.060 (as recodified by this act), in an amount sufficient to cover only the department's cost of administering and enforcing a paint stewardship program established under this chapter.

Sec. 1461. RCW 70.375.060 and 2019 c 344 s 6 are each amended to read as follows:

(1) The department shall review the plan within one hundred twenty days of receipt, and make a determination as to whether or not to approve the plan. The department shall provide a letter of approval for the plan if it provides for the establishment of a paint stewardship program that meets the requirements of RCW 70.375.040 and 70.375.050 (as recodified by this act). If a plan is rejected, the department shall provide the reasons for rejecting the plan to the stewardship organization. The stewardship organization must submit a new plan within sixty days after receipt of the letter of disapproval.

(2) When a plan or an amendment to an approved plan is submitted under this section, the department shall make the proposed plan or amendment available for public review and comment for at least thirty days.

(3) The department shall provide oversight of a stewardship organization in the determination and implementation of the architectural paint stewardship assessment specified in RCW 70.375.040(1) (as recodified by this act).

(4) The department shall identify the costs it incurs under this chapter. The department shall set the fee at an amount that, when paid by every stewardship organization or producer that submits a plan, is adequate to reimburse the department's full costs of administering and enforcing this chapter. The total amount of annual fees collected under this subsection must not exceed the amount necessary to reimburse costs incurred by the department to enforce and administer this chapter.

(5) A stewardship organization or producer subject to this chapter must pay the department's administrative fee under this subsection on or before June 30, 2020, and annually thereafter. The annual administrative fee may not exceed five percent of the aggregate assessment added to the cost of all architectural paint sold by producers in the state for the preceding calendar year.

(6) The department shall enforce this chapter.

(a) The department may administratively impose a civil penalty on any person who violates this chapter in an amount of up to one thousand dollars per violation per day.

(b) The department may administratively impose a civil penalty of up to ten thousand dollars per violation per day on any person who intentionally, knowingly, or negligently violates this chapter.

(c) Any person who incurs a penalty under this section may appeal the penalty to the pollution control hearings board established by chapter 43.21B RCW.

(7) Upon the date the first plan is approved, the department shall post on its web site a list of producers and their brands for which the department has

approved a plan pursuant to RCW 70.375.040 (as recodified by this act). The department shall update the list of producers and brands participating under an approved program plan on a monthly basis based on information provided to the department from a stewardship organization.

(8) Upon a demonstration to the satisfaction of the department that a previously unlisted producer is in compliance with this chapter, within fourteen days the department must add the name of the producer to its web site.

(9) The department shall review each annual report required pursuant to RCW 70.375.080 (as recodified by this act) within ninety days of its submission to ensure compliance with RCW 70.375.080(1) (as recodified by this act).

(10) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

Sec. 1462. RCW 70.375.080 and 2019 c 344 s 8 are each amended to read as follows:

(1) By October 15, 2020, and annually thereafter, a stewardship organization shall submit to the department a report describing the paint stewardship program that the stewardship organization implemented during the previous fiscal year. The report must include all of the following:

(a) A description of the methods the stewardship organization used to reduce, reuse, collect, transport, recycle, and process leftover paint statewide in Washington;

(b) The volume of latex and oil-based architectural paint collected by the stewardship organization in the preceding fiscal year in Washington, including any increase in total volume of paint collected each year, and the cost of the paint stewardship program per gallon of paint collected;

(c) The volume of latex and oil-based architectural paint collected by method of disposition, including reuse, recycling, energy recovery, and disposal;

(d) An estimate of the total weight of all paint containers recycled by the program;

(e) A list of all processors through final disposition that are used to manage leftover paint collected by the stewardship organization in the preceding year;

(f) A list of all the producers participating in the plan;

(g) The total volume of architectural paint sold in Washington during the preceding year based on the architectural paint stewardship assessment collected by the stewardship organization;

(h) An independent financial audit of the paint stewardship program implemented by the stewardship organization, including a breakdown of the program's expenses, such as collection, recycling, education, and overhead;

(i) The total cost of implementing the paint stewardship program broken out by administrative, collection, transportation and disposition, and communications costs;

(j) An evaluation of the effectiveness of the paint stewardship program from year to year, and anticipated steps, if needed, to improve performance throughout the state; and

(k) A summary of outreach and education activities undertaken and samples of the educational materials that the stewardship organization provided to consumers of architectural paint during the first year of the program and any changes to those materials in subsequent years.

(2) The department must make all reports submitted under this section available to the general public through the internet. Consistent with RCW 70.375.130 (as recodified by this act), valuable commercial information submitted to the department under this chapter is exempt from public disclosure under RCW 42.56.270. However, the department may use and disclose such information in summary or aggregated form as long as the disclosure does not directly or indirectly identify financial, production, or sales data of an individual producer or stewardship organization. The department is not required to notify individual producers prior to making available to the general public the reports submitted under this section or aggregated or summarized information from reports submitted under this section.

Sec. 1463. RCW 70.375.090 and 2019 c 344 s 9 are each amended to read as follows:

Producers or stewardship organizations acting on behalf of producers that prepare, submit, and implement a paint stewardship program plan pursuant to RCW 70.375.040 (as recodified by this act) and thereby are subject to regulation by the department are granted immunity from state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade and commerce, for the limited purpose of planning, reporting, and operating a paint stewardship program and proposing and establishing the architectural paint stewardship assessment required in RCW 70.375.040(1) (c) and (d) (as recodified by this act).

Sec. 1464. RCW 70.380.020 and 2019 c 460 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) "Brand" means a name, symbol, word, or mark that identifies a product, rather than its components, and attributes the covered product to the owner of the brand as the producer.

(2) "Department" means the department of ecology.

(3) "Producer" means a person who has legal ownership of the brand, brand name, or cobrand of plastic packaging sold in or into Washington state.

(4) "Recycling" has the same meaning as defined in RCW 70.95.030 (as recodified by this act).

(5) "Stakeholder" means a person who may have an interest in or be affected by the management of plastic packaging.

Sec. 1465. RCW 77.55.061 and 1994 c 257 s 18 are each amended to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW (as recodified by this act), or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW (as recodified by this act). The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW (as recodified by this act), or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090 (as recodified by this act).

Sec. 1466. RCW 81.77.010 and 2007 c 234 s 65 are each amended to read as follows:

As used in this chapter:

(1) "Motor vehicle" means any truck, trailer, semitrailer, tractor, or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting solid waste, for the collection or disposal, or both, of solid waste;

(2) "Public highway" means every street, road, or highway in this state;

(3) "Common carrier" means any person who collects and transports solid waste for disposal by motor vehicle for compensation, whether over regular or irregular routes, or by regular or irregular schedules;

(4) "Contract carrier" means all solid waste transporters not included under the terms "common carrier" and "private carrier," as defined in this section, and further, includes any person who under special and individual contracts or agreements transports solid waste by motor vehicle for compensation;

(5) "Private carrier" means a person who, in his or her own vehicle, transports solid waste purely as an incidental adjunct to some other established private business owned or operated by the person in good faith. A person who transports solid waste from residential sources in a vehicle designed or used primarily for the transport of solid waste is not a private carrier;

(6) "Vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any solid waste is or may be transported or drawn upon a public highway, except devices moved by human or animal power or used exclusively upon stationary rail or tracks;

(7) "Solid waste collection company" means every person or his or her lessees, receivers, or trustees, owning, controlling, operating, or managing vehicles used in the business of transporting solid waste for collection or disposal, or both, for compensation, except septic tank pumpers, over any public highway in this state as a "common carrier" or as a "contract carrier";

(8) "Solid waste collection" does not include collecting or transporting recyclable materials from a drop-box or recycling buy-back center, or collecting or transporting recyclable materials by or on behalf of a commercial or industrial generator of recyclable materials to a recycler for use or reclamation. Transportation of these materials is regulated under chapter 81.80 RCW;

(9) "Solid waste" means the same as defined under RCW 70.95.030 (as recodified by this act), except for the purposes of this chapter solid waste does not include recyclable materials except for source separated recyclable materials collected from residences; and

(10) When the phrase "garbage and refuse" is used as a qualifying phrase or otherwise, it means "solid waste."

Sec. 1467. RCW 81.77.030 and 2005 c 121 s 5 are each amended to read as follows:

The commission shall supervise and regulate every solid waste collection company in this state,

(1) By fixing and altering its rates, charges, classifications, rules and regulations;

(2) By regulating the accounts, service, and safety of operations;

(3) By requiring the filing of annual and other reports and data;

(4) By supervising and regulating such persons or companies in all other matters affecting the relationship between them and the public which they serve;

(5) By requiring compliance with local solid waste management plans and related implementation ordinances;

(6) By requiring certificate holders under chapter 81.77 RCW to use rate structures and billing systems consistent with the solid waste management priorities set forth under RCW 70.95.010 (as recodified by this act) and the minimum levels of solid waste collection and recycling services pursuant to local comprehensive solid waste management plans. The commission may order consolidated billing and provide for reasonable and necessary expenses to be paid to the administering company if more than one certificate is granted in an area.

The commission, on complaint made on its own motion or by an aggrieved party, at any time, after providing the holder of any certificate with notice and an opportunity for a hearing at which it shall be proven that the holder has willfully violated or refused to observe any of the commission's orders, rules, or regulations, or has failed to operate as a solid waste collection company for a period of at least one year preceding the filing of the complaint, may suspend, revoke, alter, or amend any certificate issued under the provisions of this chapter.

Sec. 1468. RCW 81.77.040 and 2010 c 24 s 1 are each amended to read as follows:

A solid waste collection company shall not operate for the hauling of solid waste for compensation without first having obtained from the commission a certificate declaring that public convenience and necessity require such operation. Operating for the hauling of solid waste for compensation includes advertising, soliciting, offering, or entering into an agreement to provide that service. To operate a solid waste collection company in the unincorporated areas of a county, the company must comply with the solid waste management plan prepared under chapter 70.95 RCW (as recodified by this act) in the company's franchise area.

Issuance of the certificate of necessity must be determined on, but not limited to, the following factors: The present service and the cost thereof for the contemplated area to be served; an estimate of the cost of the facilities to be utilized in the plant for solid waste collection and disposal, set out in an affidavit or declaration; a statement of the assets on hand of the person, firm, association, or corporation that will be expended on the purported plant for solid waste collection and disposal, set out in an affidavit or declaration; a statement of prior experience, if any, in such field by the petitioner, set out in an affidavit or declaration; and sentiment in the community contemplated to be served as to the necessity for such a service.

When an applicant requests a certificate to operate in a territory already served by a certificate holder under this chapter, the commission may, after notice and an opportunity for a hearing, issue the certificate only if the existing solid waste collection company or companies serving the territory will not provide service to the satisfaction of the commission or if the existing solid waste collection company does not object.

In all other cases, the commission may, with or without hearing, issue certificates, or for good cause shown refuse to issue them, or issue them for the partial exercise only of the privilege sought, and may attach to the exercise of the

rights granted such terms and conditions as, in its judgment, the public convenience and necessity may require.

Any right, privilege, certificate held, owned, or obtained by a solid waste collection company may be sold, assigned, leased, transferred, or inherited as other property, only if authorized by the commission.

For purposes of issuing certificates under this chapter, the commission may adopt categories of solid wastes as follows: Garbage, refuse, recyclable materials, and demolition debris. A certificate may be issued for one or more categories of solid waste. Certificates issued on or before July 23, 1989, shall not be expanded or restricted by operation of this chapter.

Sec. 1469. RCW 82.04.660 and 2015 c 185 s 2 are each amended to read as follows:

(1) An exemption from the taxes imposed in this chapter is provided for:

(a) Producers, with respect to environmental handling charges added to the purchase price of mercury-containing lights either by the producer or a retailer pursuant to an agreement with the producer;

(b) Retailers, with respect to environmental handling charges added to the purchase price of mercury-containing lights sold at retail, including the portion of environmental handling charges retained as reimbursement for any costs associated with the collection and remittance of the charges; and

(c) Stewardship organizations, with respect to environmental handling charges received from producers and retailers.

(2) This section is not subject to the requirements of RCW 82.32.805 and 82.32.808.

(3) For purposes of this section, the definitions in RCW 70.275.020 (as recodified by this act) apply.

Sec. 1470. RCW 82.04.755 and 2015 c 15 s 7 are each amended to read as follows:

(1) This chapter does not apply to grants received by a nonprofit organization from the matching fund competitive grant program established in RCW 70.93.180(1)(b)(ii) (as recodified by this act).

(2) This section is not subject to the requirements of RCW 82.32.805 and 82.32.808, and is not subject to an expiration date.

Sec. 1471. RCW 82.04.765 and 2019 c 344 s 15 are each amended to read as follows:

(1) This chapter does not apply to the receipts attributable to the assessment on architectural paint imposed pursuant to chapter 70.375 RCW (as recodified by this act).

(2) This section is not subject to the requirements of RCW 82.32.805 and 82.32.808, and is not subject to an expiration date.

Sec. 1472. RCW 82.08.0287 and 2014 c 97 s 503 are each amended to read as follows:

(1) The tax imposed by this chapter does not apply to sales of passenger motor vehicles which are to be used primarily for commuter ride sharing or ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, if the vehicles are used as ride-sharing vehicles for thirty-six consecutive months beginning from the date of purchase.

(2) To qualify for the tax exemption, those passenger motor vehicles with five or six passengers, including the driver, used for commuter ride sharing, must be operated either within the state's eight largest counties that are required to develop commute trip reduction plans as directed by chapter 70.94 RCW (as recodified by this act) or in other counties, or cities and towns within those counties, that elect to adopt and implement a commute trip reduction plan. Additionally at least one of the following conditions must apply: (a) The vehicle must be operated by a public transportation agency for the general public; or (b) the vehicle must be used by a major employer, as defined in RCW 70.94.524 (as recodified by this act) as an element of its commute trip reduction program for their employees; or (c) the vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work. Individual employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the commuter ride-sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.

Sec. 1473. RCW 82.08.810 and 1997 c 368 s 2 are each amended to read as follows:

(1) For the purposes of this section, "air pollution control facilities" mean any treatment works, control devices and disposal systems, machinery, equipment, structures, property, property improvements, and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released to the outdoor atmosphere, could cause air pollution, or that are required to meet regulatory requirements applicable to their construction, installation, or operation.

(2) The tax levied by RCW 82.08.020 does not apply to:

(a) Sales of tangible personal property to a light and power business, as defined in RCW 82.16.010, for construction or installation of air pollution control facilities at a thermal electric generation facility; or

(b) Sales of, cost of, or charges made for labor and services performed in respect to the construction or installation of air pollution control facilities.

(3) The exemption provided under this section applies only to sales, costs, or charges:

(a) Incurred for air pollution control facilities constructed or installed after May 15, 1997, and used in a thermal electric generation facility placed in operation after December 31, 1969, and before July 1, 1975;

(b) If the air pollution control facilities are constructed or installed to meet applicable regulatory requirements established under state or federal law, including the Washington clean air act, chapter 70.94 RCW (as recodified by this act); and

(c) For which the purchaser provides the seller with an exemption certificate, signed by the purchaser or purchaser's agent, that includes a description of items or services for which payment is made, the amount of the payment, and such additional information as the department reasonably may require.

(4) This section does not apply to sales of tangible personal property purchased or to sales of, costs of, or charges made for labor and services used for maintenance or repairs of pollution control equipment.

(5) If production of electricity at a thermal electric generation facility for any calendar year after 2002 and before 2023 falls below a twenty percent annual capacity factor for the generation facility, all or a portion of the tax previously exempted under this section in respect to construction or installation of air pollution control facilities at the generation facility shall be due as follows:

Year event occurs	Portion of previously exempted tax due
2003	100%
2004	95%
2005	90%
2006	85%
2007	80%
2008	75%
2009	70%
2010	65%
2011	60%
2012	55%
2013	50%
2014	45%
2015	40%
2016	35%
2017	30%
2018	25%
2019	20%
2020	15%
2021	10%
2022	5%
2023	0%

(6) RCW 82.32.393 applies to this section.

Sec. 1474. RCW 82.08.811 and 1997 c 368 s 4 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Air pollution control facilities" means any treatment works, control devices and disposal systems, machinery, equipment, structure, property, property improvements, and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released to the outdoor atmosphere, could cause air pollution, or that are required to meet regulatory requirements applicable to their construction, installation, or operation; and

(b) "Generation facility" means a coal-fired thermal electric generation facility placed in operation after December 3, 1969, and before July 1, 1975.

(2) Beginning January 1, 1999, the tax levied by RCW 82.08.020 does not apply to sales of coal used to generate electric power at a generation facility operated by a business if the following conditions are met:

(a) The owners must make an application to the department of revenue for a tax exemption;

(b) The owners must make a demonstration to the department of ecology that the owners have made reasonable initial progress to install air pollution control facilities to meet applicable regulatory requirements established under state or federal law, including the Washington clean air act, chapter 70.94 RCW (as recodified by this act);

(c) Continued progress must be made on the development of air pollution control facilities to meet the requirements of the permit; and

(d) The generation facility must emit no more than ten thousand tons of sulfur dioxide during a previous consecutive twelve-month period.

(3) During a consecutive twelve-month period, if the generation facility is found to be in violation of excessive sulfur dioxide emissions from a regional air pollution control authority or the department of ecology, the department of ecology shall notify the department of revenue and the owners of the generation facility shall lose their tax exemption under this section. The owners of a generation facility may reapply for the tax exemption when they have once again met the conditions of subsection (2)(d) of this section.

(4) RCW 82.32.393 applies to this section.

Sec. 1475. RCW 82.08.036 and 1989 c 431 s 45 are each amended to read as follows:

The tax levied by RCW 82.08.020 shall not apply to consideration: (1) Received as core deposits or credits in a retail or wholesale sale; or (2) received or collected upon the sale of a new replacement vehicle tire as a fee imposed under RCW 70.95.510 (as recodified by this act). For purposes of this section, the term "core deposits or credits" means the amount representing the value of returnable products such as batteries, starters, brakes, and other products with returnable value added for the purpose of recycling or remanufacturing.

Sec. 1476. RCW 82.08.998 and 2008 c 92 s 1 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to sales of tangible personal property used in the weatherization of a residence under the weatherization assistance program under chapter 70.164 RCW (as recodified by this act). The exemption only applies to tangible personal property that becomes a component of the residence.

(2) The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) "Residence" and "weatherization" have the meanings provided in RCW 70.164.020 (as recodified by this act).

Sec. 1477. RCW 82.12.0282 and 2014 c 97 s 504 are each amended to read as follows:

(1) The tax imposed by this chapter does not apply with respect to the use of passenger motor vehicles used primarily for commuter ride sharing or ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, if the vehicles are used as ride-sharing vehicles for thirty-six consecutive months beginning with the date of first use.

(2) To qualify for the tax exemption, those passenger motor vehicles with five or six passengers, including the driver, used for commuter ride sharing, must be operated either within the state's eight largest counties that are required to develop commute trip reduction plans as directed by chapter 70.94 RCW (as recodified by this act) or in other counties, or cities and towns within those counties, that elect to adopt and implement a commute trip reduction plan. Additionally at least one of the following conditions must apply: (a) The vehicle must be operated by a public transportation agency for the general public; or (b) the vehicle must be used by a major employer, as defined in RCW 70.94.524 (as recodified by this act) as an element of its commute trip reduction program for their employees; or (c) the vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work. Individual employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the commuter ride-sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.

Sec. 1478. RCW 82.12.038 and 1989 c 431 s 46 are each amended to read as follows:

The provisions of this chapter shall not apply: (1) To the value of core deposits or credits in a retail or wholesale sale; or (2) to the fees imposed under RCW 70.95.510 (as recodified by this act) upon the sale of a new replacement vehicle tire. For purposes of this section, the term "core deposits or credits" means the amount representing the value of returnable products such as batteries, starters, brakes, and other products with returnable value added for the purpose of recycling or remanufacturing.

Sec. 1479. RCW 82.12.810 and 2003 c 5 s 12 are each amended to read as follows:

(1) For the purposes of this section, "air pollution control facilities" mean any treatment works, control devices and disposal systems, machinery, equipment, structures, property, property improvements, and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released to the outdoor atmosphere, could cause air pollution, or that are required to meet regulatory requirements applicable to their construction, installation, or operation.

(2) The provisions of this chapter do not apply in respect to:

(a) The use of air pollution control facilities installed and used by a light and power business, as defined in RCW 82.16.010, in generating electric power; or

(b) The use of labor and services performed in respect to the installing of air pollution control facilities.

(3) The exemption provided under this section applies only to air pollution control facilities that are:

(a) Constructed or installed after May 15, 1997, and used in a thermal electric generation facility placed in operation after December 31, 1969, and before July 1, 1975; and

(b) Constructed or installed to meet applicable regulatory requirements established under state or federal law, including the Washington clean air act, chapter 70.94 RCW (as recodified by this act).

(4) This section does not apply to the use of tangible personal property for maintenance or repairs of the pollution control equipment or to labor and services performed in respect to such maintenance or repairs.

(5) If production of electricity at a thermal electric generation facility for any calendar year after 2002 and before 2023 falls below a twenty percent annual capacity factor for the generation facility, all or a portion of the tax previously exempted under this section in respect to construction or installation of air pollution control facilities at the generation facility shall be due according to the schedule provided in RCW 82.08.810(5).

(6) RCW 82.32.393 applies to this section.

Sec. 1480. RCW 82.12.811 and 1997 c 368 s 6 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Air pollution control facilities" means any treatment works, control devices and disposal systems, machinery, equipment, structure, property, property improvements, and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released to the outdoor atmosphere, could cause air pollution, or that are required to meet regulatory requirements applicable to their construction, installation, or operation; and

(b) "Generation facility" means a coal-fired thermal electric generation facility placed in operation after December 3, 1969, and before July 1, 1975.

(2) Beginning January 1, 1999, the provisions of this chapter do not apply in respect to the use of coal to generate electric power at a generation facility operated by a business if the following conditions are met:

(a) The owners must make an application to the department of revenue for a tax exemption;

(b) The owners must make a demonstration to the department of ecology that the owners have made reasonable initial progress to install air pollution control facilities to meet applicable regulatory requirements established under state or federal law, including the Washington clean air act, chapter 70.94 RCW (as recodified by this act);

(c) Continued progress must be made on the development of air pollution control facilities to meet the requirements of the permit; and

(d) The generation facility must emit no more than ten thousand tons of sulfur dioxide during a previous consecutive twelve-month period.

(3) During a consecutive twelve-month period, if the generation facility is found to be in violation of excessive sulfur dioxide emissions from a regional air pollution control authority or the department of ecology, the department of ecology shall notify the department of revenue and the owners of the generation facility shall lose their tax exemption under this section. The owners of a

generation facility may reapply for the tax exemption when they have once again met the conditions of subsection (2)(d) of this section.

(4) RCW 82.32.393 applies to this section.

Sec. 1481. RCW 82.12.998 and 2008 c 92 s 2 are each amended to read as follows:

(1) The provisions of this chapter do not apply to the use of tangible personal property used in the weatherization of a residence under the weatherization assistance program under chapter 70.164 RCW (as recodified by this act). The exemption only applies to tangible personal property that becomes a component of the residence.

(2) "Residence" and "weatherization" have the meanings provided in RCW 70.164.020 (as recodified by this act).

Sec. 1482. RCW 82.19.040 and 2019 c 415 s 989 are each amended to read as follows:

(1) To the extent applicable, all of the definitions of chapter 82.04 RCW and all of the provisions of chapter 82.32 RCW apply to the tax imposed in this chapter.

(2) Beginning June 30, 2019, taxes collected under this chapter shall be deposited in the waste reduction, recycling, and litter control account under RCW 70.93.180 (as recodified by this act), except that until June 30, 2021, one million two hundred fifty thousand dollars per fiscal year must be deposited in equal monthly amounts in the state parks renewal and stewardship account, with the remainder deposited in the waste reduction, recycling, and litter control account. It is the intent of the legislature to continue this policy in the ensuing biennium.

Sec. 1483. RCW 82.21.030 and 2019 c 422 s 201 are each amended to read as follows:

(1)(a) A tax is imposed on the privilege of possession of hazardous substances in this state. Except as provided in (b) of this subsection, the rate of the tax is seven-tenths of one percent multiplied by the wholesale value of the substance. Moneys collected under this subsection (1)(a) must be deposited in the model toxics control capital account.

(b) Beginning July 1, 2019, the rate of the tax on petroleum products is one dollar and nine cents per barrel. The tax collected under this subsection (1)(b) on petroleum products must be deposited as follows, after first depositing the tax as provided in (c) of this subsection (1):

(i) Sixty percent to the model toxics control operating account created under RCW 70.105D.190 (as recodified by this act);

(ii) Twenty-five percent to the model toxics control capital account created under RCW 70.105D.200 (as recodified by this act); and

(iii) Fifteen percent to the model toxics control stormwater account created under RCW 70.105D.210 (as recodified by this act).

(c) Until the beginning of the ensuing biennium after the enactment of an additive transportation funding act, fifty million dollars per biennium to the motor vehicle fund to be used exclusively for transportation stormwater activities and projects. For purposes of this subsection, "additive transportation funding act" means an act in which the combined total of new revenues deposited into the motor vehicle fund and the multimodal transportation account

exceed two billion dollars per biennium attributable solely to an increase in revenue from the enactment of the act.

(d) The department must compile a list of petroleum products that are not easily measured on a per barrel basis. Petroleum products identified on the list are subject to the rate under (a) of this subsection in lieu of the volumetric rate under (b) of this subsection. The list will be made in a form and manner prescribed by the department and must be made available on the department's internet web site. In compiling the list, the department may accept technical assistance from persons that sell, market, or distribute petroleum products and consider any other resource the department finds useful in compiling the list.

(2) Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter.

(3) Beginning July 1, 2020, and every July 1st thereafter, the rate specified in subsection (1)(b) of this section must be adjusted to reflect the percentage change in the implicit price deflator for nonresidential structures as published by the United States department of commerce, bureau of economic analysis for the most recent twelve-month period ending December 31st of the prior year.

Sec. 1484. RCW 82.23A.020 and 2016 c 161 s 18 are each amended to read as follows:

(1) A tax is imposed on the privilege of possession of petroleum products in this state. The rate of the tax shall be thirty one-hundredths of one percent multiplied by the wholesale value of the petroleum product. After July 1, 2021, the rate of tax is fifteen one-hundredths of one percent multiplied by the wholesale value of the petroleum product. For purposes of determining the tax imposed under this section for petroleum products introduced at the rack, the wholesale value is determined when the petroleum product is removed at the rack unless the removal is to an exporter licensed under chapter 82.38 RCW for direct delivery to a destination outside of the state. For all other cases, the wholesale value is determined upon the first nonbulk possession in the state.

(2) Except as identified in RCW 70.340.130 (as recodified by this act), moneys collected under this chapter shall be deposited in the pollution liability insurance program trust account under RCW 70.148.020 (as recodified by this act).

(3) Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter.

(4) Within thirty days after the end of each calendar quarter the department shall determine the "quarterly balance," which shall be the cash balance in the pollution liability insurance program trust account as of the last day of that calendar quarter, after excluding the reserves determined for that quarter under RCW 70.148.020(2) (as recodified by this act). Balance determinations by the department under this section are final and shall not be used to challenge the validity of any tax imposed under this section. For each subsequent calendar quarter, tax shall be imposed under this section during the entire calendar quarter unless:

(a) Tax was imposed under this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than fifteen million dollars; or

(b) Tax was not imposed under this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than seven million five hundred thousand dollars.

Sec. 1485. RCW 82.23A.902 and 2016 c 161 s 19 are each amended to read as follows:

This chapter expires July 1, 2030, coinciding with the expiration of chapter 70.148 RCW (as recodified by this act).

Sec. 1486. RCW 82.34.030 and 1967 ex.s. c 139 s 3 are each amended to read as follows:

A certificate shall be issued by the department within thirty days after approval of the application by the appropriate control agency. Such approval shall be given when it is determined that the facility is designed and is operated or is intended to be operated primarily for the control, capture and removal of pollutants from the air or for the control and reduction of water pollution and that the facility is suitable, reasonably adequate, and meets the intent and purposes of chapter 70.94 RCW (as recodified by this act) or chapter 90.48 RCW, as the case may be, and it shall notify the department of its findings within thirty days of the date on which the application was submitted to it for approval. In making such determination, the appropriate control agency shall afford to the applicant an opportunity for a hearing: PROVIDED, That if the local or regional air pollution control agency fails to act or if the applicant feels aggrieved by the action of the local or regional air pollution control agency, such applicant may appeal to the state air pollution control board pursuant to rules and regulations established by that board.

Sec. 1487. RCW 82.34.100 and 1998 c 9 s 1 are each amended to read as follows:

(1) The department of ecology, after notice to the department and the applicant and after affording the applicant an opportunity for a hearing, shall, on its own initiative or on complaint of the local or regional air pollution control agency in which an air pollution control facility is located, or is expected to be located, revise the prior findings of the appropriate control agency whenever any of the following appears:

(a) The certificate or supplement thereto was obtained by fraud or misrepresentation, or the holder of the certificate has failed substantially without good cause to proceed with the construction, reconstruction, installation or acquisition of a facility or without good cause has failed substantially to operate the facility for the purpose specified by the appropriate control agency in which case the department shall modify or revoke the certificate. If the certificate and/or supplement are revoked, all applicable taxes from which an exemption has been secured under this chapter or against which the credit provided for by this chapter has been claimed shall be immediately due and payable with the maximum interest and penalties prescribed by applicable law. No statute of limitations shall operate in the event of fraud or misrepresentation.

(b) The facility covered by the certificate or supplement thereto is no longer operated primarily for the purpose of the control or reduction of water pollution or the control, capture, and removal of pollutants from the air, as the case may be, or is no longer suitable or reasonably adequate to meet the intent and

purposes of chapter 70.94 RCW (as recodified by this act) or chapter 90.48 RCW, in which case the certificate shall be modified or revoked.

(2) A certificate, or supplement thereto, issued pursuant to RCW 82.34.030 may not be revoked if:

(a) The facility is modified, but is still operated primarily for the purpose of the control or reduction of water pollution or the control, capture, and removal of pollutants from the air and is reasonably adequate to meet the intent and purposes of chapter 70.94 (as recodified by this act) or 90.48 RCW;

(b) The facility is replaced by a new or different facility that is still operated primarily for the purpose of the control or reduction of water pollution or the control, capture, and removal of pollutants from the air and is reasonably adequate to meet the intent and purposes of chapter 70.94 (as recodified by this act) or 90.48 RCW;

(c) The facility is modified or removed as a result of an alteration of the production process and the alteration results in reasonably adequate compliance with the intent and purposes of chapter 70.94 (as recodified by this act) or 90.48 RCW;

(d) The industrial, manufacturing, waste disposal, utility, or other commercial establishment in which the facility was installed ceases operations and the cessation of operation results in reasonably adequate compliance with the intent and purposes of chapter 70.94 (as recodified by this act) or 90.48 RCW;

(e) Part of an industrial, manufacturing, waste disposal, utility, or other commercial establishment in which the facility was installed ceases operations and the cessation of operation results in reasonably adequate compliance with the intent and purposes of chapter 70.94 (as recodified by this act) or 90.48 RCW; or

(f) The industrial, manufacturing, waste disposal, utility, or other commercial establishment in which the facility was installed is altered and the alteration results in reasonably adequate compliance with the intent and purposes of chapter 70.94 (as recodified by this act) or 90.48 RCW.

(3) Upon the date of mailing by certified mail to the certificate holder of notice of the action of the department modifying or revoking a certificate or supplement, the certificate or supplement shall cease to be in force or shall remain in force only as modified.

Sec. 1488. RCW 82.44.015 and 2014 c 97 s 502 are each amended to read as follows:

(1) Passenger motor vehicles used primarily for commuter ride sharing and ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, are not subject to the motor vehicle excise tax authorized under this chapter if the vehicles are used as ride-sharing vehicles for thirty-six consecutive months beginning from the date of purchase.

(2) To qualify for the motor vehicle excise tax exemption for commuter ride-sharing vehicles, passenger motor vehicles must:

- (a) Have a seating capacity of five or six passengers, including the driver;
- (b) Be used for commuter ride sharing;
- (c) Be operated either within:

(i) The state's eight largest counties that are required to develop commute trip reduction plans as directed by chapter 70.94 RCW (as recodified by this act); or

(ii) In other counties, or cities and towns within those counties, that elect to adopt and implement a commute trip reduction plan; and

(d) Meet at least one of the following conditions:

(i) The vehicle must be operated by a public transportation agency for the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524 (as recodified by this act) as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work. Individual employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the commuter ride-sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.

(3) The registered owner of a passenger motor vehicle described in subsection (2) of this section:

(a) Shall notify the department upon the termination of the primary use of the vehicle in commuter ride sharing or ride sharing for persons with special transportation needs; and

(b) Is liable for the motor vehicle excise tax imposed under this chapter, prorated on the remaining months for which the vehicle is registered.

Sec. 1489. RCW 88.40.011 and 2015 c 274 s 9 are each reenacted and amended to read as follows:

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

(1) "Barge" means a vessel that is not self-propelled.

(2) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(3) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel, fishing vessel, or a passenger vessel, of three hundred or more gross tons.

(4) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(5) "Department" means the department of ecology.

(6) "Director" means the director of the department of ecology.

(7)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from any vessel with an oil carrying capacity over two hundred fifty barrels or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) A facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) retail motor vehicle motor fuel outlet; (iii) facility that is operated as part of

an exempt agricultural activity as provided in RCW 82.04.330; (iv) underground storage tank regulated by the department or a local government under chapter 90.76 RCW (as recodified by this act); or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(8) "Fishing vessel" means a self-propelled commercial vessel of three hundred or more gross tons that is used for catching or processing fish.

(9) "Gross tons" means tonnage as determined by the United States coast guard under 33 C.F.R. section 138.30.

(10) "Hazardous substances" means any substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499. The following are not hazardous substances for purposes of this chapter:

(a) Wastes listed as F001 through F028 in Table 302.4; and

(b) Wastes listed as K001 through K136 in Table 302.4.

(11) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(12) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land.

(13) "Oil" or "oils" means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

(14) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(15)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(16) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(17) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(18) "Spill" means an unauthorized discharge of oil into the waters of the state.

(19) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(20) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

Sec. 1490. RCW 88.46.010 and 2015 c 274 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) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering:

(a) The additional protection provided by the measures;

(b) The technological achievability of the measures; and

(c) The cost of the measures.

(2)(a) "Best achievable technology" means the technology that provides the greatest degree of protection taking into consideration:

(i) Processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development; and

(ii) Processes that are currently in use.

(b) In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(3) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(4) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, of three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(5) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(6) "Department" means the department of ecology.

(7) "Director" means the director of the department of ecology.

(8) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(9)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided under (b) of this subsection, a facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) retail motor vehicle motor fuel outlet; (iii) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; (iv) underground storage tank regulated by the department or a local government under chapter 90.76 RCW (as recodified by this act); or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(10) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(11) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(12) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land. "Offshore facility" does not include a marine facility.

(13) "Oil" or "oils" means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

(14) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(15)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(16) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(17) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(18) "Race Rocks light" means the nautical landmark located southwest of the city of Victoria, British Columbia.

(19) "Regional vessels of opportunity response group" means a group of nondedicated vessels participating in a vessels of opportunity response system to respond when needed and available to spills in a defined geographic area.

(20) "Severe weather conditions" means observed nautical conditions with sustained winds measured at forty knots and wave heights measured between twelve and eighteen feet.

(21) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(22) "Spill" means an unauthorized discharge of oil into the waters of the state.

(23) "Strait of Juan de Fuca" means waters off the northern coast of the Olympic Peninsula seaward of a line drawn from New Dungeness light in Clallam county to Discovery Island light on Vancouver Island, British Columbia, Canada.

(24) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(25) "Umbrella plan holder" means a nonprofit corporation established consistent with this chapter for the purposes of providing oil spill response and contingency plan coverage.

(26) "Vessel emergency" means a substantial threat of pollution originating from a covered vessel, including loss or serious degradation of propulsion, steering, means of navigation, primary electrical generating capability, and seakeeping capability.

(27) "Vessels of opportunity response system" means nondedicated boats and operators, including fishing and other vessels, that are under contract with and equipped by contingency plan holders to assist with oil spill response activities, including on-water oil recovery in the nearshore environment and the placement of oil spill containment booms to protect sensitive habitats.

(28) "Volunteer coordination system" means an oil spill response system that, before a spill occurs, prepares for the coordination of volunteers to assist with appropriate oil spill response activities, which may include shoreline protection and cleanup, wildlife recovery, field observation, light construction, facility maintenance, donations management, clerical support, and other aspects of a spill response.

(29) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(30) "Worst case spill" means: (a) In the case of a vessel, a spill of the entire cargo and fuel of the vessel complicated by adverse weather conditions; and (b) in the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

Sec. 1491. RCW 90.03.383 and 1991 c 350 s 1 are each amended to read as follows:

(1) The legislature recognizes the value of interties for improving the reliability of public water systems, enhancing their management, and more efficiently utilizing the increasingly limited resource. Given the continued growth in the most populous areas of the state, the increased complexity of public water supply management, and the trend toward regional planning and regional solutions to resource issues, interconnections of public water systems through interties provide a valuable tool to ensure reliable public water supplies for the citizens of the state. Public water systems have been encouraged in the past to utilize interties to achieve public health and resource management objectives. The legislature finds that it is in the public interest to recognize interties existing and in use as of January 1, 1991, and to have associated water rights modified by the department of ecology to reflect current use of water through those interties, pursuant to subsection (3) of this section. The legislature further finds it in the public interest to develop a coordinated process to review proposals for interties commencing use after January 1, 1991.

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

(a) "Interties" are interconnections between public water systems permitting exchange or delivery of water between those systems for other than emergency supply purposes, where such exchange or delivery is within established instantaneous and annual withdrawal rates specified in the systems' existing water right permits or certificates, or contained in claims filed pursuant to chapter 90.14 RCW, and which results in better management of public water supply consistent with existing rights and obligations. Interties include interconnections between public water systems permitting exchange or delivery of water to serve as primary or secondary sources of supply, but do not include development of new sources of supply to meet future demand.

(b) "Service area" is the area designated in a water system plan or a coordinated water system plan pursuant to chapter 43.20 or 70.116 RCW (as recodified by this act) respectively. When a public water system does not have a designated service area subject to the approval process of those chapters, the service area shall be the designated place of use contained in the water right permit or certificate, or contained in the claim filed pursuant to chapter 90.14 RCW.

(3) Public water systems with interties existing and in use as of January 1, 1991, or that have received written approval from the department of health prior to that date, shall file written notice of those interties with the department of health and the department of ecology. The notice may be incorporated into the public water system's five-year update of its water system plan, but shall be filed no later than June 30, 1996. The notice shall identify the location of the intertie; the dates of its first use; the purpose, capacity, and current use; the intertie agreement of the parties and the service areas assigned; and other information reasonably necessary to modify the water right permit. Notwithstanding the provisions of RCW 90.03.380 and 90.44.100, for public water systems with interties existing and in use as of January 1, 1991, the department of ecology, upon receipt of notice meeting the requirements of this subsection, shall, as soon as practicable, modify the place of use descriptions in the water right permits, certificates, or claims to reflect the actual use through such interties, provided

that the place of use is within service area designations established in a water system plan approved pursuant to chapter 43.20 RCW, or a coordinated water system plan approved pursuant to chapter 70.116 RCW (as recodified by this act), and further provided that the water used is within the instantaneous and annual withdrawal rates specified in the water right permit and that no outstanding complaints of impairment to existing water rights have been filed with the department of ecology prior to September 1, 1991. Where such complaints of impairment have been received, the department of ecology shall make all reasonable efforts to resolve them in a timely manner through agreement of the parties or through available administrative remedies.

(4) Notwithstanding the provisions of RCW 90.03.380 and 90.44.100, exchange or delivery of water through interties commencing use after January 1, 1991, shall be permitted when the intertie improves overall system reliability, enhances the manageability of the systems, provides opportunities for conjunctive use, or delays or avoids the need to develop new water sources, and otherwise meets the requirements of this section, provided that each public water system's water use shall not exceed the instantaneous or annual withdrawal rate specified in its water right authorization, shall not adversely affect existing water rights, and shall not be inconsistent with state-approved plans such as water system plans or other plans which include specific proposals for construction of interties. Interties commencing use after January 1, 1991, shall not be inconsistent with regional water resource plans developed pursuant to chapter 90.54 RCW.

(5) For public water systems subject to the approval process of chapter 43.20 RCW or chapter 70.116 RCW (as recodified by this act), proposals for interties commencing use after January 1, 1991, shall be incorporated into water system plans pursuant to chapter 43.20 RCW or coordinated water system plans pursuant to chapter 70.116 RCW (as recodified by this act) and submitted to the department of health and the department of ecology for review and approval as provided for in subsections (5) through (9) of this section. The plan shall state how the proposed intertie will improve overall system reliability, enhance the manageability of the systems, provide opportunities for conjunctive use, or delay or avoid the need to develop new water sources.

(6) The department of health shall be responsible for review and approval of proposals for new interties. In its review the department of health shall determine whether the intertie satisfies the criteria of subsection (4) of this section, with the exception of water rights considerations, which are the responsibility of the department of ecology, and shall determine whether the intertie is necessary to address emergent public health or safety concerns associated with public water supply.

(7) If the intertie is determined by the department of health to be necessary to address emergent public health or safety concerns associated with public water supply, the public water system shall amend its water system plan as required and shall file an application with the department of ecology to change its existing water right to reflect the proposed use of the water as described in the approved water system plan. The department of ecology shall process the application for change pursuant to RCW 90.03.380 or 90.44.100 as appropriate, except that, notwithstanding the requirements of those sections regarding notice and protest periods, applicants shall be required to publish notice one time, and

the comment period shall be fifteen days from the date of publication of the notice. Within sixty days of receiving the application, the department of ecology shall issue findings and advise the department of health if existing water rights are determined to be adversely affected. If no determination is provided by the department of ecology within the sixty-day period, the department of health shall proceed as if existing rights are not adversely affected by the proposed intertie. The department of ecology may obtain an extension of the sixty-day period by submitting written notice to the department of health and to the applicant indicating a definite date by which its determination will be made. No additional extensions shall be granted, and in no event shall the total review period for the department of ecology exceed one hundred eighty days.

(8) If the department of health determines the proposed intertie appears to meet the requirements of subsection (4) of this section but is not necessary to address emergent public health or safety concerns associated with public water supply, the department of health shall instruct the applicant to submit to the department of ecology an application for change to the underlying water right or claim as necessary to reflect the new place of use. The department of ecology shall consider the applications pursuant to the provisions of RCW 90.03.380 and 90.44.100 as appropriate. If in its review of proposed interties and associated water rights the department of ecology determines that additional information is required to act on the application, the department may request applicants to provide information necessary for its decision, consistent with agency rules and written guidelines. Parties disagreeing with the decision of the department of ecology on the application for change in place of use may appeal the decision to the pollution control hearings board.

(9) The department of health may approve plans containing intertie proposals prior to the department of ecology's decision on the water right application for change in place of use. However, notwithstanding such approval, construction work on the intertie shall not begin until the department of ecology issues the appropriate water right document to the applicant consistent with the approved plan.

Sec. 1492. RCW 90.03.386 and 2003 1st sp.s. c 5 s 5 are each amended to read as follows:

(1) Within service areas established pursuant to chapter 43.20 or 70.116 RCW (as recodified by this act), the department of ecology and the department of health shall coordinate approval procedures to ensure compliance and consistency with the approved water system plan or small water system management program.

(2) The effect of the department of health's approval of a planning or engineering document that describes a municipal water supplier's service area under chapter 43.20 RCW, or the local legislative authority's approval of service area boundaries in accordance with procedures adopted pursuant to chapter 70.116 RCW (as recodified by this act), is that the place of use of a surface water right or groundwater right used by the supplier includes any portion of the approved service area that was not previously within the place of use for the water right if the supplier is in compliance with the terms of the water system plan or small water system management program, including those regarding water conservation, and the alteration of the place of use is not inconsistent, regarding an area added to the place of use, with: Any comprehensive plans or

development regulations adopted under chapter 36.70A RCW; any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county; or any watershed plan approved under chapter 90.82 RCW, or a comprehensive watershed plan adopted under RCW 90.54.040(1) after September 9, 2003, if such a watershed plan has been approved for the area.

(3) A municipal water supplier must implement cost-effective water conservation in accordance with the requirements of RCW 70.119A.180 (as recodified by this act) as part of its approved water system plan or small water system management program. In preparing its regular water system plan update, a municipal water supplier with one thousand or more service connections must describe: (a) The projects, technologies, and other cost-effective measures that comprise its water conservation program; (b) improvements in the efficiency of water system use resulting from implementation of its conservation program over the previous six years; and (c) projected effects of delaying the use of existing inchoate rights over the next six years through the addition of further cost-effective water conservation measures before it may divert or withdraw further amounts of its inchoate right for beneficial use. When establishing or extending a surface or ground water right construction schedule under RCW 90.03.320, the department must take into consideration the public water system's use of conserved water.

Sec. 1493. RCW 90.03.570 and 2003 1st sp.s. c 5 s 14 are each amended to read as follows:

(1) An unperfected surface water right for municipal water supply purposes or a portion thereof held by a municipal water supplier may be changed or transferred in the same manner as provided by RCW 90.03.380 for any purpose if:

(a) The supplier is in compliance with the terms of an approved water system plan or small water system management program under chapter 43.20 or 70.116 RCW (as recodified by this act) that applies to the supplier, including those regarding water conservation;

(b) Instream flows have been established by rule for the water resource inventory area, as established in chapter 173-500 WAC as it exists on September 9, 2003, that is the source of the water for the transfer or change;

(c) A watershed plan has been approved for the water resource inventory area referred to in (b) of this subsection under chapter 90.82 RCW and a detailed implementation plan has been completed that satisfies the requirements of RCW 90.82.043 or a watershed plan has been adopted after September 9, 2003, for that water resource inventory area under RCW 90.54.040(1) and a detailed implementation plan has been completed that satisfies the requirements of RCW 90.82.043; and

(d) Streamflows that satisfy the instream flows referred to in (b) of this subsection are met or the milestones for satisfying those instream flows required under (c) of this subsection are being met.

(2) If the criteria listed in subsection (1)(a) through (d) of this section are not satisfied, an unperfected surface water right for municipal water supply purposes or a portion thereof held by a municipal water supplier may nonetheless be changed or transferred in the same manner as provided by RCW 90.03.380 if the change or transfer is:

(a) To provide water for an instream flow requirement that has been established by the department by rule;

(b) Subject to streamflow protection or restoration requirements contained in: A federally approved habitat conservation plan under the federal endangered species act, 16 U.S.C. Sec. 1531 et seq., a hydropower license of the federal energy regulatory commission, or a watershed agreement established under RCW 90.03.590;

(c) For a water right that is subject to instream flow requirements or agreements with the department and the change or transfer is also subject to those instream flow requirements or agreements; or

(d) For resolving or alleviating a public health or safety emergency caused by a failing public water supply system currently providing potable water to existing users, as such a system is described in RCW 90.03.580, and if the change, transfer, or amendment is for correcting the actual or anticipated cause or causes of the public water system failure. Inadequate water rights for a public water system to serve existing hookups or to accommodate future population growth or other future uses do not constitute a public health or safety emergency.

(3) If the recipient of water under a change or transfer authorized by subsection (1) of this section is a water supply system, the receiving system must also be in compliance with the terms of an approved water system plan or small water system management program under chapter 43.20 or 70.116 RCW (as recodified by this act) that applies to the system, including those regarding water conservation.

(4) The department must provide notice to affected tribes of any transfer or change proposed under this section.

Sec. 1494. RCW 90.03.590 and 2003 1st sp.s. c 5 s 16 are each amended to read as follows:

(1) On a pilot project basis, the department may enter into a watershed agreement with one or more municipal water suppliers in water resource inventory area number one to meet the objectives established in a water resource management program approved or being developed under chapter 90.82 RCW with the consent of the initiating governments of the water resource inventory area. The term of an agreement may not exceed ten years, but the agreement may be renewed or amended upon agreement of the parties.

(2) A watershed agreement must be consistent with:

(a) Growth management plans developed under chapter 36.70A RCW where these plans are adopted and in effect;

(b) Water supply plans and small water system management programs approved under chapter 43.20 or 70.116 RCW (as recodified by this act);

(c) Coordinated water supply plans approved under chapter 70.116 RCW (as recodified by this act); and

(d) Water use efficiency and conservation requirements and standards established by the state department of health or such requirements and standards as are provided in an approved watershed plan, whichever are the more stringent.

(3) A watershed agreement must:

(a) Require the public water system operated by the participating municipal water supplier to meet obligations under the watershed plan;

(b) Establish performance measures and timelines for measures to be completed;

(c) Provide for monitoring of streamflows and metering of water use as needed to ensure that the terms of the agreement are met; and

(d) Require annual reports from the water users regarding performance under the agreement.

(4) As needed to implement watershed agreement activities, the department may provide or receive funding, or both, under its existing authorities.

(5) The department must provide opportunity for public review of a proposed agreement before it is executed. The department must make proposed and executed watershed agreements and annual reports available on the department's internet web site.

(6) The department must consult with affected local governments and the state departments of health and fish and wildlife before executing an agreement.

(7) Before executing a watershed agreement, the department must conduct a government-to-government consultation with affected tribal governments. The municipal water suppliers operating the public water systems that are proposing to enter into the agreements must be invited to participate in the consultations. During these consultations, the department and the municipal water suppliers shall explore the potential interest of the tribal governments or governments in participating in the agreement.

(8) Any person aggrieved by the department's failure to satisfy the requirements in subsection (3) of this section as embodied in the department's decision to enter into a watershed agreement under this section may, within thirty days of the execution of such an agreement, appeal the department's decision to the pollution control hearings board under chapter 43.21B RCW.

(9) Any projects implemented by a municipal water system under the terms of an agreement reached under this section may be continued and maintained by the municipal water system after the agreement expires or is terminated as long as the conditions of the agreement under which they were implemented continue to be met.

(10) Before December 31, 2003, and December 31, 2004, the department must report to the appropriate committees of the legislature the results of the pilot project provided for in this section. Based on the experience of the pilot project, the department must offer any suggested changes in law that would improve, facilitate, and maximize the implementation of watershed plans adopted under this chapter.

Sec. 1495. RCW 90.46.005 and 2007 c 445 s 2 are each amended to read as follows:

The legislature finds that by encouraging the use of reclaimed water while assuring the health and safety of all Washington citizens and the protection of its environment, the state of Washington will continue to use water in the best interests of present and future generations.

To facilitate the immediate use of reclaimed water for uses approved by the departments of ecology and health, the state shall expand both direct financial support and financial incentives for capital investments in water reuse and reclaimed water to effectuate the goals of this chapter. The legislature further directs the department of health and the department of ecology to coordinate efforts towards developing an efficient and streamlined process for creating and implementing processes for the use of reclaimed water.

It is hereby declared that the people of the state of Washington have a primary interest in the development of facilities to provide reclaimed water to replace potable water in nonpotable applications, to supplement existing surface and ground water supplies, and to assist in meeting the future water requirements of the state.

The legislature further finds and declares that the utilization of reclaimed water by local communities for domestic, agricultural, industrial, recreational, and fish and wildlife habitat creation and enhancement purposes, including wetland enhancement, will contribute to the peace, health, safety, and welfare of the people of the state of Washington. To the extent reclaimed water is appropriate for beneficial uses, it should be so used to preserve potable water for drinking purposes, contribute to the restoration and protection of instream flows that are crucial to preservation of the state's salmonid fishery resources, contribute to the restoration of Puget Sound by reducing wastewater discharge, provide a drought resistant source of water supply for nonpotable needs, or be a source of supply integrated into state, regional, and local strategies to respond to population growth and global warming. Use of reclaimed water constitutes the development of new basic water supplies needed for future generations and local and regional water management planning should consider coordination of infrastructure, development, storage, water reclamation and reuse, and source exchange as strategies to meet water demands associated with population growth and impacts of global warming.

The legislature further finds and declares that the use of reclaimed water is not inconsistent with the policy of antidegradation of state waters announced in other state statutes, including the water pollution control act, chapter 90.48 RCW and the water resources act, chapter 90.54 RCW.

The legislature finds that other states, including California, Florida, and Arizona, have successfully used reclaimed water to supplement existing water supplies without threatening existing resources or public health.

It is the intent of the legislature that the department of ecology and the department of health undertake the necessary steps to encourage the development of water reclamation facilities so that reclaimed water may be made available to help meet the growing water requirements of the state.

The legislature further finds and declares that reclaimed water facilities are water pollution control facilities as defined in chapter 70.146 RCW (as recodified by this act) and are eligible for financial assistance as provided in chapter 70.146 RCW (as recodified by this act). The legislature finds that funding demonstration projects will ensure the future use of reclaimed water. The demonstration projects in RCW 90.46.110 are varied in nature and will provide the experience necessary to test different facets of the standards and refine a variety of technologies so that water purveyors can begin to use reclaimed water technology in a more cost-effective manner. This is especially critical in smaller cities and communities where the feasibility for such projects is great, but there are scarce resources to develop the necessary facilities.

The legislature further finds that the agricultural processing industry can play a critical and beneficial role in promoting the efficient use of water by having the opportunity to develop and reuse agricultural industrial process water from food processing.

Sec. 1496. RCW 90.46.010 and 2009 c 456 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) "Agricultural industrial process water" means water that has been used for the purpose of agricultural processing and has been adequately and reliably treated, so that as a result of that treatment, it is suitable for other agricultural water use.

(2) "Agricultural processing" means the processing of crops or milk to produce a product primarily for wholesale or retail sale for human or animal consumption, including but not limited to potato, fruit, vegetable, and grain processing.

(3) "Agricultural water use" means the use of water for irrigation and other uses related to the production of agricultural products. These uses include, but are not limited to, construction, operation, and maintenance of agricultural facilities and livestock operations at farms, ranches, dairies, and nurseries. Examples of these uses include, but are not limited to, dust control, temperature control, and fire control.

(4) "Constructed beneficial use wetlands" means those wetlands intentionally constructed on nonwetland sites to produce or create natural wetland functions and values.

(5) "Constructed treatment wetlands" means wetland-like impoundments intentionally constructed on nonwetland sites and managed for the primary purpose of further treatment or retention of reclaimed water as distinct from creating natural wetland functions and values.

(6) "Direct groundwater recharge" means the controlled subsurface addition of water directly into groundwater for the purpose of replenishing groundwater.

(7) "Domestic wastewater" means wastewater from greywater, toilet, or urinal sources.

(8) "Greywater or gray water" means domestic type flows from bathtubs, showers, bathroom sinks, washing machines, dishwashers, and kitchen or utility sinks. Gray water does not include flow from a toilet or urinal.

(9) "Industrial reuse water" means water that has been used for the purpose of industrial processing and has been adequately and reliably treated so that, as a result of that treatment, it is suitable for other uses.

(10) "Land application" means use of reclaimed water as permitted under this chapter for the purpose of irrigation or watering of landscape vegetation.

(11) "Lead agency" means either the department of health or the department of ecology that has been designated by rule as the agency that will coordinate, review, issue, and enforce a reclaimed water permit issued under this chapter.

(12) "Nonlead agency" means either the department of health or the department of ecology, whichever is not the lead agency for purposes of this chapter.

(13) "Person" means any state, individual, public or private corporation, political subdivision, governmental subdivision, governmental agency, municipality, copartnership, association, firm, trust estate, or any other legal entity whatever.

(14) "Planned groundwater recharge project" means any reclaimed water project designed for the purpose of recharging groundwater.

(15) "Reclaimed water" means water derived in any part from wastewater with a domestic wastewater component that has been adequately and reliably treated, so that it can be used for beneficial purposes. Reclaimed water is not considered a wastewater.

(16) "State drinking water contaminant criteria" means the contaminant criteria found in the drinking water quality standards adopted by the state board of health pursuant to chapter 43.20 RCW and the department of health pursuant to chapter 70.119A RCW (as recodified by this act).

(17) "Streamflow or surface water augmentation" means the intentional use of reclaimed water for rivers and streams of the state or other surface water bodies, for the purpose of increasing volumes.

(18) "Surface percolation" means the controlled application of water to the ground surface or to unsaturated soil for the purpose of replenishing groundwater.

(19) "User" means any person who uses reclaimed water.

(20) "Wastewater" means water-carried wastes from residences, buildings, industrial and commercial establishments, or other places, together with such groundwater infiltration and inflow as may be present.

(21) "Wetland or wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands regulated under this chapter shall be delineated in accordance with the manual adopted by the department of ecology pursuant to RCW 90.58.380.

Sec. 1497. RCW 90.46.120 and 2009 c 456 s 5 are each amended to read as follows:

(1) The owner of a wastewater treatment facility that is reclaiming water with a permit issued under this chapter has the exclusive right to any reclaimed water generated by the wastewater treatment facility. Use, distribution, storage, and the recovery from storage of reclaimed water permitted under this chapter is exempt from the permit requirements of RCW 90.03.250 and 90.44.060, provided that a permit for recovery of reclaimed water from aquifer storage shall be reviewed under the standards established under RCW 90.03.370(2) for aquifer storage and recovery projects. Revenues derived from the reclaimed water facility shall be used only to offset the cost of operation of the wastewater utility fund or other applicable source of systemwide funding.

(2) If the proposed use of reclaimed water is to augment or replace potable water supplies or to create the potential for the development of an additional new potable water supply, then regional water supply plans, or any other potable water supply plans prepared by multiple water purveyors, must consider the proposed use of the reclaimed water as they are developed or updated.

(a) Regional water supply plans include those adopted under state board of health laws (chapter 43.20 RCW), the public water system coordination act of 1977 (chapter 70.116 RCW (as recodified by this act)), groundwater protection laws (chapter 90.44 RCW), and the watershed planning act (chapter 90.82 RCW).

(b) The requirement to consider the use of reclaimed water does not change the plan approval process established under these statutes.

(c) When regional water supply plans are being developed, the owners of wastewater treatment facilities that produce or propose to produce reclaimed water for use within the planning area must be included in the planning process.

(3) When reclaimed water is available or is proposed for use under a water supply or wastewater plan developed under chapter 43.20, 70.116 (as recodified by this act), 90.44, 90.48, or 90.82 RCW these plans must be coordinated to ensure that opportunities for reclaimed water are evaluated. The requirements of this subsection (3) do not apply to water system plans developed under chapter 43.20 RCW for utilities serving less than one thousand service connections.

(4) The provisions of any plan for reclaimed water, developed under the authorities in subsections (2) and (3) of this section, should be included by a city, town, or county in reviewing provisions for water supplies in a proposed short plat, short subdivision, or subdivision under chapter 58.17 RCW, where reclaimed water supplies may be proposed for nonpotable purposes in the short plat, short subdivision, or subdivision.

(5) By November 30, 2009, the department of ecology shall review comments from the reclaimed water advisory committee under RCW 90.46.050 and the reclaimed water and water rights advisory committee under the direction of the department of ecology and submit a recommendation to the legislature on the impairment requirements and standards for reclaimed water. The department of ecology shall also provide a report to the legislature that describes the opinions of the stakeholders on the impairment requirements and standards for reclaimed water.

Sec. 1498. RCW 90.48.039 and 1994 c 257 s 19 are each amended to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW (as recodified by this act), or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW (as recodified by this act). The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW (as recodified by this act), or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090 (as recodified by this act).

Sec. 1499. RCW 90.48.110 and 2007 c 343 s 13 are each amended to read as follows:

(1) Except under subsection (2) of this section, all engineering reports, plans, and specifications for the construction of new sewerage systems, sewage treatment or disposal plants or systems, or for improvements or extensions to existing sewerage systems or sewage treatment or disposal plants, and the proposed method of future operation and maintenance of said facility or facilities, shall be submitted to and be approved by the department, before construction thereof may begin. No approval shall be given until the department is satisfied that said plans and specifications and the methods of operation and maintenance submitted are adequate to protect the quality of the state's waters as provided for in this chapter. Approval under this chapter is not required for large on-site sewage systems permitted by the department of health under chapter

70.118B RCW (as recodified by this act) or for on-site sewage systems regulated by local health jurisdictions under rules of the state board of health.

(2) To promote efficiency in service delivery and intergovernmental cooperation in protecting the quality of the state's waters, the department may delegate the authority for review and approval of engineering reports, plans, and specifications for the construction of new sewerage systems, sewage treatment or disposal plants or systems, or for improvements or extensions to existing sewerage system or sewage treatment or disposal plants, and the proposed method of future operations and maintenance of said facility or facilities and industrial pretreatment systems, to local units of government requesting such delegation and meeting criteria established by the department.

(3) For any new or revised general sewer plan submitted for review under this section, the department shall review and either approve, conditionally approve, reject, or request amendments within ninety days of the receipt of the submission of the plan. The department may extend this ninety-day time limitation for new submittals by up to an additional ninety days if insufficient time exists to adequately review the general sewer plan. For rejections of plans or extensions of the timeline, the department shall provide in writing to the local government entity the reason for such action. In addition, the governing body of the local government entity and the department may mutually agree to an extension of the deadlines contained in this section.

Sec. 1500. RCW 90.48.162 and 2007 c 343 s 12 are each amended to read as follows:

Any county or any municipal or public corporation operating or proposing to operate a sewerage system, including any system which collects only domestic sewerage, which results in the disposal of waste material into the waters of the state shall procure a permit from the department of ecology before so disposing of such materials. This section is intended to extend the permit system of RCW 90.48.160 to counties and municipal or public corporations and the provisions of RCW 90.48.170 through 90.48.200 and 90.52.040 shall be applicable to the permit requirement imposed under this section. A permit under this chapter is not required for large on-site sewage systems permitted by the department of health under chapter 70.118B RCW (as recodified by this act) or for on-site sewage systems permitted by local health jurisdictions under rules of the state board of health.

Sec. 1501. RCW 90.48.285 and 2005 c 469 s 4 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 (as recodified by this act), 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. 1502. RCW 90.48.530 and 2003 c 210 s 1 are each amended to read as follows:

(1) In order to ensure that construction projects involving the use of fill material do not pose a threat to water quality, the department may require that the suitability of potential fill material be evaluated using a leaching test included in the soil clean-up rules adopted by the department under chapter 70.105D RCW (as recodified by this act) in any water quality certification issued under section 401 of the federal clean water act and in any administrative order issued under this chapter, where such certification or administrative order authorizes the placement of fill material, some or all of which will be placed in waters of the state. Any such requirement imposed by the department in a water quality certification or administrative order issued prior to May 9, 2003, is ratified and approved by the legislature as a valid and reliable method for determining concentrations of chemical constituents that can be present in fill material without posing an unacceptable risk of violating water quality standards, and shall be in effect as imposed by the department for all work not completed by June 1, 2003.

(2) Nothing in this section limits, in any way, the department's authority under this chapter.

Sec. 1503. RCW 90.48.531 and 2003 c 210 s 2 are each amended to read as follows:

The department shall identify the leaching tests utilized for evaluating the potential impacts to water quality in situations where fill material is imported. The tests may include those identified in the soil clean-up rules adopted by the department under chapter 70.105D RCW (as recodified by this act). Within existing resources, the department shall assess whether this list of leaching tests provides appropriate methods for analyzing water quality impacts for all types of projects and in all circumstances where fill material is imported. The department shall also identify any gaps in leaching test methodology. The department shall report both the leaching test list and the list of test methodology gaps to the appropriate committees of the legislature by December 31, 2003.

Sec. 1504. RCW 90.52.030 and 1971 ex.s. c 160 s 3 are each amended to read as follows:

Operation of an industrial or commercial operation in violation of RCW 90.52.010 may be enjoined on petition of the attorney general to the superior court of Thurston county or of the county in which the operation is located.

Operation of an industrial or commercial operation in violation of this chapter shall provide the basis of a civil penalty under RCW 90.48.144 or 70.94.431 (as recodified by this act) as now or are hereafter amended. No person may discharge wastes into the waters or air of the state who fails to satisfy the requirements of RCW 90.52.010 and 90.52.040.

Sec. 1505. RCW 90.56.010 and 2015 c 274 s 3 are each reenacted and amended to read as follows:

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

(1) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering (a) the additional protection provided by the measures; (b) the technological achievability of the measures; and (c) the cost of the measures.

(2) "Best achievable technology" means the technology that provides the greatest degree of protection taking into consideration (a) processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development, and (b) processes that are currently in use. In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(3) "Board" means the pollution control hearings board.

(4) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(5) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(6) "Committee" means the preassessment screening committee established under RCW 90.48.368.

(7) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(8) "Crude oil" means any naturally occurring hydrocarbons coming from the earth that are liquid at twenty-five degrees Celsius and one atmosphere of pressure including, but not limited to, crude oil, bitumen and diluted bitumen, synthetic crude oil, and natural gas well condensate.

(9) "Department" means the department of ecology.

(10) "Director" means the director of the department of ecology.

(11) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(12)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided in (b) of this subsection, a facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) underground storage tank regulated by the department or a local government under chapter 90.76 RCW (as recodified by this act); (iii) motor vehicle motor fuel outlet; (iv) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(13) "Fund" means the state coastal protection fund as provided in RCW 90.48.390 and 90.48.400.

(14) "Having control over oil" shall include but not be limited to any person using, storing, or transporting oil immediately prior to entry of such oil into the waters of the state, and shall specifically include carriers and bailees of such oil.

(15) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(16) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(17) "Necessary expenses" means the expenses incurred by the department and assisting state agencies for (a) investigating the source of the discharge; (b) investigating the extent of the environmental damage caused by the discharge; (c) conducting actions necessary to clean up the discharge; (d) conducting predamage and damage assessment studies; and (e) enforcing the provisions of this chapter and collecting for damages caused by a discharge.

(18) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land.

(19) "Oil" or "oils" means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

(20) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(21)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(22) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(23) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(24) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(25) "Spill" means an unauthorized discharge of oil or hazardous substances into the waters of the state.

(26) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(27) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(28) "Worst case spill" means: (a) In the case of a vessel, a spill of the entire cargo and fuel of the vessel complicated by adverse weather conditions; and (b) in the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

Sec. 1506. RCW 90.58.355 and 2015 3rd sp.s. c 15 s 9 are each amended to read as follows:

Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review conducted by a local government to implement this chapter do not apply to:

(1) Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW (as recodified by this act), or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW (as recodified by this act). The department must ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW (as recodified by this act), or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090 (as recodified by this act);

(2) Any person installing site improvements for stormwater treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system stormwater general permit. The department must ensure compliance with the substantive requirements of this chapter through the review of engineering reports, site plans, and other documents related to the installation of boatyard stormwater treatment facilities; or

(3) The department of transportation projects and activities that meet the conditions of RCW 90.58.356.

Sec. 1507. RCW 90.71.270 and 2007 c 341 s 9 are each amended to read as follows:

(1) The council shall appoint a nine-member Puget Sound science panel to provide independent, nonrepresentational scientific advice to the council and expertise in identifying environmental indicators and benchmarks for incorporation into the action agenda.

(2) In establishing the panel, the council shall request the Washington academy of sciences, created in chapter 70.220 RCW (as recodified by this act), to nominate fifteen scientists with recognized expertise in fields of science essential to the recovery of Puget Sound. Nominees should reflect the full range of scientific and engineering disciplines involved in Puget Sound recovery. At a minimum, the Washington academy of sciences shall consider making nominations from scientists associated with federal, state, and local agencies, tribes, the business and environmental communities, members of the K-12, college, and university communities, and members of the board. The solicitation should be to all sectors, and candidates may be from all public and private sectors. Persons nominated by the Washington academy of sciences must disclose any potential conflicts of interest, and any financial relationship with any leadership councilmember, and disclose sources of current financial support and contracts relating to Puget Sound recovery.

(3) The panel shall select a chair and a vice chair. Panel members shall serve four-year terms, except that the council shall determine initial terms of two, three, and four years to provide for staggered terms. The council shall determine reappointments and select replacements or additional members of the panel. No panel member may serve longer than twelve years.

(4) The executive director shall designate a lead staff scientist to coordinate panel actions, and administrative staff to support panel activities. The legislature intends to provide ongoing funding for staffing of the panel to ensure that it has sufficient capacity to provide independent scientific advice.

(5) The executive director of the partnership and the science panel shall explore a shared state and federal responsibility for the staffing and administration of the panel. In the event that a federally sponsored Puget Sound

recovery office is created, the council may propose that such office provide for staffing and administration of the panel.

(6) The panel shall assist the council in developing and revising the action agenda, making recommendations to the action agenda, and making recommendations to the council for updates or revisions.

(7) Members of the panel shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060, and based upon the availability of funds, the council may contract with members of the panel for compensation for their services under chapter 39.29 RCW. If appointees to the panel are employed by the federal, state, tribal, or local governments, the council may enter into interagency personnel agreements.

Sec. 1508. RCW 90.71.340 and 2007 c 341 s 16 are each amended to read as follows:

(1) The legislature intends that fiscal incentives and disincentives be used as accountability measures designed to achieve consistency with the action agenda by:

(a) Ensuring that projects and activities in conflict with the action agenda are not funded;

(b) Aligning environmental investments with strategic priorities of the action agenda; and

(c) Using state grant and loan programs to encourage consistency with the action agenda.

(2) The council shall adopt measures to ensure that funds appropriated for implementation of the action agenda and identified by proviso or specifically referenced in the omnibus appropriations act pursuant to RCW 43.88.030(1)(g) are expended in a manner that will achieve the intended results. In developing such performance measures, the council shall establish criteria for the expenditure of the funds consistent with the responsibilities and timelines under the action agenda, and require reporting and tracking of funds expended. The council may adopt other measures, such as requiring interagency agreements regarding the expenditure of provided or specifically referenced Puget Sound funds.

(3) The partnership shall work with other state agencies providing grant and loan funds or other financial assistance for projects and activities that impact the health of the Puget Sound ecosystem under chapters 43.155, 70.105D (as recodified by this act), 70.146 (as recodified by this act), 77.85, 79.105, 79A.15, 89.08, and 90.50A RCW to, within the authorities of the programs, develop consistent funding criteria that prohibits funding projects and activities that are in conflict with the action agenda.

(4) The partnership shall develop a process and criteria by which entities that consistently achieve outstanding progress in implementing the action agenda are designated as Puget Sound partners. State agencies shall work with the partnership to revise their grant, loan, or other financial assistance allocation criteria to create a preference for entities designated as Puget Sound partners for funds allocated to the Puget Sound basin, pursuant to RCW 43.155.070, (~~70.105D.070~~), 70.105D.190 (as recodified by this act), 70.105D.200 (as recodified by this act), 70.105D.210 (as recodified by this act), 70.146.070 (as recodified by this act), 77.85.130, 79.105.150, 79A.15.040, 89.08.520, and

90.50A.040. This process shall be developed on a timeline that takes into consideration state grant and loan funding cycles.

(5) Any entity that receives state funds to implement actions required in the action agenda shall report biennially to the council on progress in completing the action and whether expected results have been achieved within the time frames specified in the action agenda.

Sec. 1509. RCW 90.71.370 and 2019 c 422 s 412 are each amended to read as follows:

(1) By December 1, 2008, and by September 1st of each even-numbered year beginning in 2010, the council must provide to the governor and the appropriate fiscal committees of the senate and house of representatives its recommendations for the funding necessary to implement the action agenda in the succeeding biennium. The recommendations must:

- (a) Identify the funding needed by action agenda element;
- (b) Address funding responsibilities among local, state, and federal governments, as well as nongovernmental funding; and
- (c) Address funding needed to support the work of the partnership, the panel, the ecosystem work group, and entities assisting in coordinating local efforts to implement the plan.

(2) In the 2008 report required under subsection (1) of this section, the council must include recommendations for projected funding needed through 2020 to implement the action agenda; funding needs for science panel staff; identify methods to secure stable and sufficient funding to meet these needs; and include proposals for new sources of funding to be dedicated to Puget Sound protection and recovery. In preparing the science panel staffing proposal, the council must consult with the panel.

(3) By November 1st of each odd-numbered year beginning in 2009, the council must produce a state of the Sound report that includes, at a minimum:

- (a) An assessment of progress by state and nonstate entities in implementing the action agenda, including accomplishments in the use of state funds for action agenda implementation;
- (b) A description of actions by implementing entities that are inconsistent with the action agenda and steps taken to remedy the inconsistency;
- (c) The comments by the panel on progress in implementing the plan, as well as findings arising from the assessment and monitoring program;
- (d) A review of citizen concerns provided to the partnership and the disposition of those concerns;
- (e) A review of the expenditures of funds to state agencies for the implementation of programs affecting the protection and recovery of Puget Sound, and an assessment of whether the use of the funds is consistent with the action agenda; and
- (f) An identification of all funds provided to the partnership, and recommendations as to how future state expenditures for all entities, including the partnership, could better match the priorities of the action agenda.

(4)(a) The council must review state programs that fund facilities and activities that may contribute to action agenda implementation. By November 1, 2009, the council must provide initial recommendations regarding program changes to the governor and appropriate fiscal and policy committees of the senate and house of representatives. By November 1, 2010, the council must

provide final recommendations regarding program changes, including proposed legislation to implement the recommendation, to the governor and appropriate fiscal and policy committees of the senate and house of representatives.

(b) The review in this subsection must be conducted with the active assistance and collaboration of the agencies administering these programs, and in consultation with local governments and other entities receiving funding from these programs:

(i) Water pollution control facilities financing, chapter 70.146 RCW (as recodified by this act);

(ii) The water pollution control revolving fund, chapter 90.50A RCW;

(iii) The public works assistance account, chapter 43.155 RCW;

(iv) The aquatic lands enhancement account, RCW 79.105.150;

(v) The model toxics control operating, capital, and stormwater accounts and clean-up program, chapter 70.105D RCW (as recodified by this act);

(vi) The acquisition of habitat conservation and outdoor recreation land, chapter 79A.15 RCW;

(vii) The salmon recovery funding board, RCW 77.85.110 through 77.85.150;

(viii) The community economic revitalization board, chapter 43.160 RCW;

(ix) Other state financial assistance to water quality-related projects and activities; and

(x) Water quality financial assistance from federal programs administered through state programs or provided directly to local governments in the Puget Sound basin.

(c) The council's review must include but not be limited to:

(i) Determining the level of funding and types of projects and activities funded through the programs that contribute to implementation of the action agenda;

(ii) Evaluating the procedures and criteria in each program for determining which projects and activities to fund, and their relationship to the goals and priorities of the action agenda;

(iii) Assessing methods for ensuring that the goals and priorities of the action agenda are given priority when program funding decisions are made regarding water quality-related projects and activities in the Puget Sound basin and habitat-related projects and activities in the Puget Sound basin;

(iv) Modifying funding criteria so that projects, programs, and activities that are inconsistent with the action agenda are ineligible for funding;

(v) Assessing ways to incorporate a strategic funding approach for the action agenda within the outcome-focused performance measures required by RCW 43.41.270 in administering natural resource-related and environmentally based grant and loan programs.

(5) During the 2009-2011 fiscal biennium, the council's review must result in a ranking of projects affecting the protection and recovery of the Puget Sound basin that are proposed in the governor's capital budget submitted under RCW 43.88.060. The ranking must include recommendations for reallocation of total requested funds for Puget Sound basin projects to achieve the greatest positive outcomes for protection and recovery of Puget Sound and must be submitted to the appropriate fiscal committees of the legislature no later than February 1, 2011.

(6) During the 2011-2013 fiscal biennium, the council must by November 1, 2012, produce the state of the Sound report as defined in subsection (3) of this section.

Sec. 1510. RCW 90.76.040 and 1998 c 155 s 3 are each amended to read as follows:

(1) A city, town, or county may apply to the department to have an area within its jurisdictional boundaries designated an environmentally sensitive area. A city, town, or county may submit a joint application with any other city, town, or county for joint administration under chapter 39.34 RCW of a single environmentally sensitive area located in both jurisdictions.

(2) A city, town, or county may adopt proposed ordinances or resolutions establishing requirements for underground storage tanks located within an environmentally sensitive area that are more stringent than the statewide standards established under RCW 90.76.020 (as recodified by this act). Proposed local ordinances and resolutions shall only apply to new underground storage tank installations. The local government adopting the ordinances and resolutions shall submit them to the department for approval. Disapproved ordinances and resolutions may be modified and resubmitted to the department for approval. Proposed local ordinances and resolutions become effective when approved by the department.

(3) The department shall approve or disapprove each proposed local ordinance or resolution based on the following criteria:

(a) The area to be regulated is found to be an environmentally sensitive area based on rules adopted by the department; and

(b) The proposed local regulations are reasonably consistent with previously approved local regulations for similar environmentally sensitive areas.

(4) A city, town, or county for which a proposed local ordinance or resolution establishing more stringent requirements is approved by the department may establish local tank fees that meet the requirements of RCW 90.76.090 (as recodified by this act), if such fees are necessary for enhanced program administration or enforcement.

Sec. 1511. RCW 90.76.050 and 2007 c 147 s 4 are each amended to read as follows:

(1) A person delivering regulated substances to underground storage tanks shall not deliver or deposit regulated substances to underground storage tanks or facilities that do not have a facility compliance tag displayed as required in RCW 90.76.020(5)(a) (as recodified by this act). Additionally, a person delivering regulated substances to underground storage tanks shall not deliver or deposit regulated substances to an individual underground storage tank on which the department has placed a red tag under RCW 90.76.020(6) (as recodified by this act).

(2) An owner or operator of an underground storage tank system or facility shall not accept delivery or deposit of regulated substances to that underground storage tank system or facility, if the system does not have a facility compliance tag displayed as required in RCW 90.76.020(5)(a) (as recodified by this act). Additionally, an owner or operator of an underground storage tank system or facility shall not accept delivery or deposit of regulated substances to an

individual underground storage tank on which the department has placed a red tag under RCW 90.76.020(6) (as recodified by this act).

(3) A supplier shall not refuse to deliver regulated substances to an underground storage tank regulated under this chapter on the basis of its potential to leak contents where the facility displays a valid facility compliance tag as required in this chapter, and the department has not placed a red tag on the underground storage tank. This section does not apply to a supplier who does not directly transfer a regulated substance into an underground storage tank.

Sec. 1512. RCW 90.76.070 and 2007 c 147 s 5 are each amended to read as follows:

The director may seek appropriate injunctive or other judicial relief by filing an action in Thurston county superior court or issue such order as the director deems appropriate to:

(1) Enjoin any threatened or continuing violation of this chapter or rules adopted under this chapter;

(2) Restrain immediately and effectively a person from engaging in unauthorized activity that results in a violation of any requirement of this chapter or rules adopted under this chapter and is endangering or causing damage to public health or the environment;

(3) Require compliance with requests for information, access, testing, or monitoring under RCW 90.76.060 (as recodified by this act); or

(4) Assess and recover civil penalties authorized under RCW 90.76.080 (as recodified by this act).

Sec. 1513. RCW 90.76.090 and 2007 c 147 s 7 are each amended to read as follows:

(1) An annual tank fee of one hundred twenty dollars per tank is effective July 1, 2007, to June 30, 2008. An annual tank fee of one hundred forty dollars per tank is effective from July 1, 2008, to June 30, 2009. Effective July 1, 2009, the annual tank fee will increase up to one hundred sixty dollars per tank unless the department has received sufficient additional federal grant funding to offset the increased cost of implementation of the underground storage tank compliance act of 2005 (Title XV, Subtitle B of the energy policy act of 2005). Annually, beginning on July 1, 2010, and upon a finding by the department that a fee increase is necessary, the previous tank fee amount may be increased up to the fiscal growth factor for the next year. The fiscal growth factor is calculated by the office of financial management under RCW 43.135.025 for the upcoming biennium. The department shall use the fiscal growth factor to calculate the fee for the next year and shall publish the new fee by March 1st before the year for which the new fee is effective. The new tank fee is effective from July 1st to June 30th of every year. The tank fee shall be paid by every person who:

(a) Owns an underground storage tank located in this state; and

(b) Was required to provide notification to the department under the federal act.

This fee is not required of persons who have (i) permanently closed their tanks, and (ii) if required, have completed corrective action in accordance with the rules adopted under this chapter.

(2) The department may authorize the imposition of additional annual local tank fees in environmentally sensitive areas designated under RCW 90.76.040

(as recodified by this act). Annual local tank fees may not exceed fifty percent of the annual state tank fee.

(3) State and local tank fees collected under this section shall be deposited in the account established under RCW 90.76.100 (as recodified by this act).

(4) Other than the annual local tank fee authorized for environmentally sensitive areas, no local government may levy an annual tank fee on the ownership or operation of an underground storage tank.

Sec. 1514. RCW 90.76.100 and 1991 sp.s. c 13 s 72 are each amended to read as follows:

The underground storage tank account is created in the state treasury. Money in the account may only be spent, subject to legislative appropriation, for the administration and enforcement of the underground storage tank program established under this chapter. The account shall contain:

(1) All fees collected under RCW 90.76.090 (as recodified by this act); and

(2) All fines or penalties collected under RCW 90.76.080 (as recodified by this act).

Sec. 1515. RCW 90.76.110 and 2007 c 147 s 8 are each amended to read as follows:

(1) Except as provided in RCW 90.76.040 (as recodified by this act) and subsections (2), (3), (4), and (5) of this section, the rules adopted under this chapter supersede and preempt any state or local underground storage tank law, ordinance, or resolution governing any aspect of regulation covered by the rules adopted under this chapter.

(2) Provisions of the international fire code adopted under chapter 19.27 RCW, which are not more stringent than, and do not directly conflict with, rules adopted under this chapter are not superseded or preempted.

(3) Local laws, ordinances, and resolutions pertaining to local authority to take immediate action in response to a release of a regulated substance are not superseded or preempted.

(4) City, town, or county underground storage tank ordinances that are more stringent than the federal regulations and the uniform codes adopted under chapter 19.27 RCW and that were in effect on or before November 1, 1988, are not superseded or preempted.

(5) Local laws, ordinances, and resolutions pertaining to permits and fees for the use of underground storage tanks in street right-of-ways that were in existence prior to July 1, 1990, are not superseded or preempted.

Sec. 1516. RCW 90.76.902 and 1989 c 346 s 18 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, RCW 90.76.050 (as recodified by this act), 90.76.110 (as recodified by this act), and 19.27.080 take effect on July 1, 1990.

(2) This section shall apply only if this act becomes effective as provided under section 20(2) of this act.

NEW SECTION. Sec. 2001. RCW 43.21M.010, 43.21M.020, 43.21M.030, 43.21M.040, and 43.21M.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2002. RCW 43.37.010, 43.37.030, 43.37.040, 43.37.050, 43.37.060, 43.37.080, 43.37.090, 43.37.100, 43.37.110, 43.37.120,

43.37.130, 43.37.140, 43.37.150, 43.37.160, 43.37.170, 43.37.180, 43.37.190, 43.37.200, 43.37.210, 43.37.215, 43.37.220, and 43.37.910 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2003. RCW 43.145.010, 43.145.020, and 43.145.030 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2004. RCW 43.146.010 and 43.146.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2005. RCW 43.200.010, 43.200.015, 43.200.020, 43.200.030, 43.200.070, 43.200.080, 43.200.170, 43.200.180, 43.200.190, 43.200.200, 43.200.220, 43.200.230, 43.200.233, 43.200.235, 43.200.900, 43.200.901, 43.200.905, and 43.200.907 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2006. RCW 43.205.010 and 43.205.020 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2007. RCW 70.75A.005, 70.75A.010, 70.75A.020, 70.75A.030, 70.75A.040, 70.75A.050, and 70.75A.060 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2008. RCW 70.76.005, 70.76.010, 70.76.020, 70.76.030, 70.76.040, 70.76.050, 70.76.060, 70.76.070, 70.76.080, 70.76.090, 70.76.100, and 70.76.110 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2009. RCW 70.93.010, 70.93.020, 70.93.030, 70.93.040, 70.93.050, 70.93.060, 70.93.070, 70.93.080, 70.93.090, 70.93.093, 70.93.095, 70.93.097, 70.93.110, 70.93.180, 70.93.200, 70.93.210, 70.93.220, 70.93.230, 70.93.250, and 70.93.910 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2010. RCW 70.94.011, 70.94.015, 70.94.017, 70.94.030, 70.94.033, 70.94.035, 70.94.037, 70.94.040, 70.94.041, 70.94.053, 70.94.055, 70.94.057, 70.94.068, 70.94.069, 70.94.070, 70.94.081, 70.94.085, 70.94.091, 70.94.092, 70.94.093, 70.94.094, 70.94.095, 70.94.096, 70.94.097, 70.94.100, 70.94.110, 70.94.120, 70.94.130, 70.94.141, 70.94.142, 70.94.143, 70.94.151, 70.94.152, 70.94.153, 70.94.154, 70.94.155, 70.94.157, 70.94.161, 70.94.162, 70.94.163, 70.94.165, 70.94.170, 70.94.181, 70.94.200, 70.94.205, 70.94.211, 70.94.221, 70.94.230, 70.94.231, 70.94.240, 70.94.260, 70.94.262, 70.94.302, 70.94.331, 70.94.332, 70.94.335, 70.94.350, 70.94.370, 70.94.380, 70.94.385, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, 70.94.420, 70.94.422, 70.94.425, 70.94.430, 70.94.431, 70.94.435, 70.94.440, 70.94.450, 70.94.453, 70.94.455, 70.94.457, 70.94.460, 70.94.463, 70.94.467, 70.94.470, 70.94.473, 70.94.475, 70.94.477, 70.94.480, 70.94.483, 70.94.488, 70.94.510, 70.94.521, 70.94.524, 70.94.527, 70.94.528, 70.94.531, 70.94.534, 70.94.537, 70.94.541, 70.94.544, 70.94.547, 70.94.551, 70.94.555, 70.94.600, 70.94.610, 70.94.620, 70.94.640, 70.94.645, 70.94.6511, 70.94.6512, 70.94.6514, 70.94.6516, 70.94.6518, 70.94.6520, 70.94.6522, 70.94.6524, 70.94.6526, 70.94.6528, 70.94.6530, 70.94.6532, 70.94.6534, 70.94.6536, 70.94.6538, 70.94.6540, 70.94.6542, 70.94.6544, 70.94.6546, 70.94.6548, 70.94.6550, 70.94.6552, 70.94.6554, 70.94.6556, 70.94.710, 70.94.715, 70.94.720,

70.94.725, 70.94.730, 70.94.785, 70.94.800, 70.94.805, 70.94.820, 70.94.850, 70.94.860, 70.94.875, 70.94.880, 70.94.892, 70.94.901, 70.94.902, 70.94.904, 70.94.911, 70.94.960, 70.94.970, 70.94.980, 70.94.990, 70.94.991, and 70.94.992 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2011. RCW 70.95.010, 70.95.020, 70.95.030, 70.95.055, 70.95.060, 70.95.065, 70.95.075, 70.95.080, 70.95.090, 70.95.092, 70.95.094, 70.95.095, 70.95.096, 70.95.100, 70.95.110, 70.95.130, 70.95.140, 70.95.150, 70.95.160, 70.95.163, 70.95.165, 70.95.167, 70.95.170, 70.95.180, 70.95.185, 70.95.190, 70.95.200, 70.95.205, 70.95.207, 70.95.210, 70.95.212, 70.95.215, 70.95.217, 70.95.218, 70.95.220, 70.95.230, 70.95.235, 70.95.240, 70.95.250, 70.95.255, 70.95.260, 70.95.263, 70.95.265, 70.95.267, 70.95.268, 70.95.270, 70.95.280, 70.95.285, 70.95.290, 70.95.295, 70.95.300, 70.95.305, 70.95.306, 70.95.310, 70.95.315, 70.95.320, 70.95.330, 70.95.400, 70.95.410, 70.95.420, 70.95.430, 70.95.440, 70.95.500, 70.95.510, 70.95.515, 70.95.521, 70.95.530, 70.95.532, 70.95.535, 70.95.540, 70.95.550, 70.95.555, 70.95.560, 70.95.565, 70.95.570, 70.95.600, 70.95.610, 70.95.620, 70.95.630, 70.95.640, 70.95.650, 70.95.660, 70.95.670, 70.95.700, 70.95.710, 70.95.715, 70.95.720, 70.95.725, 70.95.805, 70.95.807, 70.95.810, 70.95.815, 70.95.900, 70.95.903, and 70.95.904 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2012. RCW 70.95A.010, 70.95A.020, 70.95A.030, 70.95A.035, 70.95A.040, 70.95A.045, 70.95A.050, 70.95A.060, 70.95A.070, 70.95A.080, 70.95A.090, 70.95A.100, 70.95A.910, 70.95A.912, and 70.95A.930 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2013. RCW 70.95B.010, 70.95B.020, 70.95B.030, 70.95B.040, 70.95B.050, 70.95B.060, 70.95B.071, 70.95B.080, 70.95B.090, 70.95B.095, 70.95B.100, 70.95B.110, 70.95B.115, 70.95B.120, 70.95B.130, 70.95B.140, 70.95B.151, and 70.95B.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2014. RCW 70.95C.010, 70.95C.020, 70.95C.030, 70.95C.040, 70.95C.050, 70.95C.060, 70.95C.070, 70.95C.080, 70.95C.110, 70.95C.120, 70.95C.200, 70.95C.210, 70.95C.220, 70.95C.230, 70.95C.240, and 70.95C.250 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2015. RCW 70.95D.010, 70.95D.020, 70.95D.030, 70.95D.040, 70.95D.051, 70.95D.060, 70.95D.070, 70.95D.080, 70.95D.090, 70.95D.100, and 70.95D.110 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2016. RCW 70.95E.010, 70.95E.020, 70.95E.030, 70.95E.040, 70.95E.050, 70.95E.080, 70.95E.090, and 70.95E.100 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2017. RCW 70.95F.010, 70.95F.020, and 70.95F.030 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2018. RCW 70.95G.005, 70.95G.010, 70.95G.020, 70.95G.030, 70.95G.040, 70.95G.050, 70.95G.060, and 70.95G.070 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2019. RCW 70.95I.005, 70.95I.010, 70.95I.020, 70.95I.030, 70.95I.040, 70.95I.050, 70.95I.060, 70.95I.070, 70.95I.080, and 70.95I.901 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2020. RCW 70.95J.005, 70.95J.007, 70.95J.010, 70.95J.020, 70.95J.025, 70.95J.030, 70.95J.040, 70.95J.050, 70.95J.060, 70.95J.070, 70.95J.080, and 70.95J.090 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2021. RCW 70.95K.005, 70.95K.010, 70.95K.011, 70.95K.020, 70.95K.030, 70.95K.040, 70.95K.900, and 70.95K.920 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2022. RCW 70.95L.005, 70.95L.010, 70.95L.020, 70.95L.030, and 70.95L.040 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2023. RCW 70.95M.010, 70.95M.020, 70.95M.030, 70.95M.040, 70.95M.050, 70.95M.060, 70.95M.070, 70.95M.080, 70.95M.090, 70.95M.100, 70.95M.110, 70.95M.115, 70.95M.120, 70.95M.130, and 70.95M.140 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2024. RCW 70.95N.010, 70.95N.020, 70.95N.030, 70.95N.040, 70.95N.050, 70.95N.060, 70.95N.070, 70.95N.080, 70.95N.090, 70.95N.100, 70.95N.110, 70.95N.120, 70.95N.130, 70.95N.140, 70.95N.150, 70.95N.160, 70.95N.170, 70.95N.180, 70.95N.190, 70.95N.200, 70.95N.210, 70.95N.220, 70.95N.230, 70.95N.240, 70.95N.250, 70.95N.260, 70.95N.280, 70.95N.290, 70.95N.300, 70.95N.310, 70.95N.320, 70.95N.330, 70.95N.340, 70.95N.350, 70.95N.900, and 70.95N.902 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2025. RCW 70.98.010, 70.98.020, 70.98.030, 70.98.050, 70.98.080, 70.98.085, 70.98.090, 70.98.095, 70.98.098, 70.98.100, 70.98.110, 70.98.120, 70.98.122, 70.98.125, 70.98.130, 70.98.140, 70.98.150, 70.98.160, 70.98.170, 70.98.180, 70.98.190, 70.98.200, 70.98.220, 70.98.910, and 70.98.920 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2026. RCW 70.99.010, 70.99.020, 70.99.030, 70.99.040, 70.99.050, 70.99.060, 70.99.900, and 70.99.910 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2027. RCW 70.102.010 and 70.102.020 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2028. RCW 70.103.010, 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.060, 70.103.070, 70.103.080, and 70.103.090 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2029. RCW 70.105.005, 70.105.007, 70.105.010, 70.105.020, 70.105.025, 70.105.030, 70.105.035, 70.105.040, 70.105.050,

70.105.070, 70.105.080, 70.105.085, 70.105.090, 70.105.095, 70.105.097, 70.105.100, 70.105.105, 70.105.109, 70.105.110, 70.105.111, 70.105.112, 70.105.116, 70.105.120, 70.105.130, 70.105.135, 70.105.140, 70.105.145, 70.105.150, 70.105.160, 70.105.165, 70.105.170, 70.105.180, 70.105.200, 70.105.210, 70.105.215, 70.105.217, 70.105.220, 70.105.221, 70.105.225, 70.105.230, 70.105.235, 70.105.240, 70.105.245, 70.105.250, 70.105.255, 70.105.260, 70.105.270, 70.105.280, 70.105.300, 70.105.310, and 70.105.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2030. RCW 70.105D.010, 70.105D.020, 70.105D.030, 70.105D.040, 70.105D.050, 70.105D.055, 70.105D.060, 70.105D.080, 70.105D.090, 70.105D.100, 70.105D.110, 70.105D.120, 70.105D.130, 70.105D.140, 70.105D.150, 70.105D.160, 70.105D.180, 70.105D.190, 70.105D.200, 70.105D.210, 70.105D.900, 70.105D.905, 70.105D.910, 70.105D.915, and 70.105D.920 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2031. RCW 70.106.010, 70.106.020, 70.106.030, 70.106.040, 70.106.050, 70.106.060, 70.106.070, 70.106.080, 70.106.090, 70.106.100, 70.106.110, 70.106.120, 70.106.140, 70.106.150, 70.106.905, and 70.106.910 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2032. RCW 70.107.010, 70.107.020, 70.107.030, 70.107.040, 70.107.050, 70.107.060, 70.107.070, 70.107.080, 70.107.900, and 70.107.910 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2033. RCW 70.116.010, 70.116.020, 70.116.030, 70.116.040, 70.116.050, 70.116.060, 70.116.070, 70.116.080, 70.116.090, 70.116.100, 70.116.110, 70.116.120, 70.116.134, and 70.116.140 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2034. RCW 70.118.010, 70.118.020, 70.118.030, 70.118.040, 70.118.050, 70.118.060, 70.118.070, 70.118.080, 70.118.090, 70.118.110, 70.118.120, and 70.118.130 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2035. RCW 70.118A.010, 70.118A.020, 70.118A.030, 70.118A.040, 70.118A.050, 70.118A.060, 70.118A.070, 70.118A.080, 70.118A.090, and 70.118A.100 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2036. RCW 70.118B.005, 70.118B.010, 70.118B.020, 70.118B.030, 70.118B.040, 70.118B.050, 70.118B.060, and 70.118B.070 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2037. RCW 70.119.010, 70.119.020, 70.119.030, 70.119.040, 70.119.050, 70.119.060, 70.119.070, 70.119.081, 70.119.090, 70.119.100, 70.119.110, 70.119.120, 70.119.130, 70.119.140, 70.119.150, 70.119.160, 70.119.170, 70.119.180, and 70.119.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2038. RCW 70.119A.020, 70.119A.025, 70.119A.030, 70.119A.040, 70.119A.050, 70.119A.060, 70.119A.070, 70.119A.080, 70.119A.100, 70.119A.110, 70.119A.115, 70.119A.120, 70.119A.130, 70.119A.140, 70.119A.150, 70.119A.170, 70.119A.180, 70.119A.190, 70.119A.200, 70.119A.210, and 70.119A.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2039. RCW 70.120.010, 70.120.020, 70.120.070, 70.120.080, 70.120.100, 70.120.120, 70.120.130, 70.120.150, 70.120.160, 70.120.170, 70.120.190, 70.120.210, 70.120.230, and 70.120.902 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2040. RCW 70.120A.010, 70.120A.020, 70.120A.030, and 70.120A.050 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2041. RCW 70.121.010, 70.121.020, 70.121.030, 70.121.040, 70.121.050, 70.121.060, 70.121.070, 70.121.080, 70.121.090, 70.121.100, 70.121.110, 70.121.120, 70.121.130, 70.121.140, 70.121.150, 70.121.900, and 70.121.905 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2042. RCW 70.132.010, 70.132.020, 70.132.030, 70.132.040, 70.132.050, and 70.132.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2043. RCW 70.138.010, 70.138.020, 70.138.030, 70.138.040, 70.138.050, 70.138.060, 70.138.070, 70.138.900, and 70.138.901 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2044. RCW 70.140.010, 70.140.020, 70.140.030, 70.140.040, 70.140.050, 70.140.060, 70.140.070, and 70.140.080 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2045. RCW 70.142.010, 70.142.020, 70.142.030, 70.142.040, and 70.142.050 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2046. RCW 70.146.010, 70.146.020, 70.146.030, 70.146.040, 70.146.050, 70.146.060, 70.146.070, 70.146.075, 70.146.090, 70.146.100, 70.146.110, and 70.146.120 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2047. RCW 70.148.005, 70.148.010, 70.148.020, 70.148.025, 70.148.030, 70.148.035, 70.148.040, 70.148.050, 70.148.060, 70.148.070, 70.148.080, 70.148.090, 70.148.110, and 70.148.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2048. RCW 70.149.010, 70.149.020, 70.149.030, 70.149.040, 70.149.050, 70.149.060, 70.149.070, 70.149.080, 70.149.090, 70.149.100, 70.149.120, 70.149.800, 70.149.801, and 70.149.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2049. RCW 70.150.010, 70.150.020, 70.150.030, 70.150.040, 70.150.050, 70.150.060, 70.150.070, 70.150.080, and 70.150.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2050. RCW 70.164.010, 70.164.020, 70.164.030, 70.164.040, 70.164.050, 70.164.060, and 70.164.070 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2051. RCW 70.220.010, 70.220.020, 70.220.030, 70.220.040, 70.220.050 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2052. RCW 70.235.005, 70.235.010, 70.235.020, 70.235.030, 70.235.040, 70.235.050, 70.235.060, 70.235.070, 70.235.080, and 70.235.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2053. RCW 70.240.010, 70.240.020, 70.240.025, 70.240.030, 70.240.035, 70.240.040, 70.240.050, and 70.240.060 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2054. RCW 70.260.010, 70.260.020, and 70.260.030 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2055. RCW 70.270.010, 70.270.020, 70.270.030, 70.270.040, 70.270.050, and 70.270.060 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2056. RCW 70.275.010, 70.275.020, 70.275.030, 70.275.040, 70.275.050, 70.275.060, 70.275.070, 70.275.080, 70.275.090, 70.275.100, 70.275.110, 70.275.130, 70.275.140, 70.275.150, 70.275.160, 70.275.170, 70.275.900, and 70.275.901 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2057. RCW 70.280.010, 70.280.020, 70.280.030, 70.280.040, 70.280.050, and 70.280.060 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2058. RCW 70.285.010, 70.285.020, 70.285.030, 70.285.040, 70.285.050, 70.285.060, 70.285.070, 70.285.080, 70.285.090, and 70.285.100 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2059. RCW 70.295.010 and 70.295.020 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2060. RCW 70.300.005, 70.300.010, 70.300.020, 70.300.030, 70.300.040, 70.300.050, and 70.300.060 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2061. RCW 70.310.010, 70.310.020, 70.310.030, 70.310.040, and 70.310.050 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2062. RCW 70.315.010, 70.315.020, 70.315.030, 70.315.040, 70.315.050, 70.315.060, 70.315.900, 70.315.901, and 70.315.902 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2063. RCW 70.325.010, 70.325.020, 70.325.030, 70.325.040, and 70.325.050 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2064. RCW 70.340.010, 70.340.020, 70.340.030, 70.340.040, 70.340.050, 70.340.060, 70.340.070, 70.340.080, 70.340.090, 70.340.100, 70.340.110, 70.340.120, 70.340.130, and 70.340.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2065. RCW 70.355.010 is recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2066. RCW 70.360.010, 70.360.020, 70.360.030, 70.360.040, 70.360.050, 70.360.060, 70.360.070, 70.360.080, 70.360.090, 70.360.100, 70.360.110, and 70.360.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2067. RCW 70.365.010, 70.365.020, 70.365.030, 70.365.040, 70.365.050, 70.365.060, 70.365.070, 70.365.080, and 70.365.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2068. RCW 70.370.010, 70.370.020, 70.370.030, and 70.370.040 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2069. RCW 70.375.010, 70.375.020, 70.375.030, 70.375.040, 70.375.050, 70.375.060, 70.375.070, 70.375.080, 70.375.090, 70.375.100, 70.375.110, 70.375.120, and 70.375.130 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2070. RCW 70.380.010, 70.380.020, 70.380.030, and 70.380.900 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 2071. RCW 90.76.005, 90.76.010, 90.76.020, 90.76.040, 90.76.050, 90.76.060, 90.76.070, 90.76.080, 90.76.090, 90.76.100, 90.76.110, 90.76.900, 90.76.901, and 90.76.902 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. Sec. 3001. The following acts or parts of acts are each repealed:

(1) RCW 70.105E.010 (Purpose) and 2005 c 1 s 1 (Initiative Measure No. 297, approved November 2, 2004);

(2) RCW 70.105E.020 (Policy) and 2005 c 1 s 2 (Initiative Measure No. 297, approved November 2, 2004);

(3) RCW 70.105E.030 (Definitions) and 2005 c 1 s 3 (Initiative Measure No. 297, approved November 2, 2004);

(4) RCW 70.105E.040 (Duties of the department of ecology to regulate mixed wastes) and 2005 c 1 s 4 (Initiative Measure No. 297, approved November 2, 2004);

(5) RCW 70.105E.050 (Releases of radioactive substances—Clean-up standards) and 2005 c 1 s 5 (Initiative Measure No. 297, approved November 2, 2004);

(6) RCW 70.105E.060 (Disposal of waste in unlined trenches—Investigation and cleanup of unlined trenches—Closure of mixed waste tank systems) and 2005 c 1 s 6 (Initiative Measure No. 297, approved November 2, 2004);

(7) RCW 70.105E.080 (Exemptions: Naval reactor disposal at Hanford—Low-level waste compact) and 2005 c 1 s 8 (Initiative Measure No. 297, approved November 2, 2004);

(8) RCW 70.105E.100 (Enforcement and appeals) and 2005 c 1 s 10 (Initiative Measure No. 297, approved November 2, 2004);

(9) RCW 70.105E.900 (Construction—2005 c 1 (Initiative Measure No. 297)) and 2005 c 1 s 11 (Initiative Measure No. 297, approved November 2, 2004); and

(10) RCW 70.105E.901 (Short title—2005 c 1 (Initiative Measure No. 297)) and 2005 c 1 s 12 (Initiative Measure No. 297, approved November 2, 2004).

Passed by the House February 19, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 21

[House Bill 2251]

DISPENSING OF INTERCHANGEABLE BIOLOGICAL PRODUCT--NOTICE TO PRACTITIONER--EXPIRATION DATE

AN ACT Relating to the expiration date for notification of dispensing an interchangeable biological product; amending RCW 69.41.193; and providing an expiration date.

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

Sec. 1. RCW 69.41.193 and 2015 c 242 s 4 are each amended to read as follows:

(1) Within five business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee must make an entry of the specific product provided to the patient, including either the name of the product and the manufacturer or the federal food and drug administration's national drug code, provided that the name of the product and the name of the manufacturer are accessible to a practitioner in an electronic records system that can be electronically accessed by the patient's practitioner through:

- (a) An interoperable electronic medical records system;
- (b) An electronic prescribing technology;
- (c) A pharmacy benefit management system; or
- (d) A pharmacy record.

(2) Entry into an electronic records system, as described in subsection (1) of this section, is presumed to provide notice to the practitioner. Otherwise, the pharmacist must communicate to the practitioner the specific product provided to the patient, including the name of the product and manufacturer, using facsimile, telephone, electronic transmission, or other prevailing means.

(3) No entry or communication pursuant to this section is required if:

(a) There is no interchangeable biological product for the product prescribed;

(b) A refill prescription is not changed from the product dispensed on the prior filling of the prescription; or

(c) The pharmacist or the pharmacist's designee and the practitioner communicated before dispensing and the communication included confirmation

of the specific product to be provided to the patient, including the name of the product and the manufacturer.

(4) This section expires August 1, ~~((2020))~~ 2025.

Passed by the House February 19, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 22

[House Bill 2259]

OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION--CRIMINAL BACKGROUND CHECKS

AN ACT Relating to the office of the superintendent of public instruction's authority to conduct criminal background checks; and amending RCW 28A.400.303.

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

Sec. 1. RCW 28A.400.303 and 2019 c 266 s 20 are each amended to read as follows:

(1)~~(a)~~ School districts, educational service districts, the Washington center for deaf and hard of hearing youth, the state school for the blind, the office of the superintendent of public instruction, and their contractors (~~((hiring employees who will have regularly scheduled unsupervised access to children or developmentally disabled persons))~~) shall require a record check through the Washington state patrol criminal identification system under RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the federal bureau of investigation criminal justice information systems before hiring ~~((an employee. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card.))~~ the following employees:

(i) Employees who will have regularly scheduled unsupervised access to children or persons with developmental disabilities; and

(ii) Employees who receive criminal history record information or personally identifiable information from the record check.

(b) A record check under this section must include a fingerprint check using a complete Washington state criminal identification fingerprint card.

(c) The requesting entity may provide a copy of the record report to the applicant at the applicant's request.

(d) When necessary, applicants for employment may be employed on a conditional basis pending completion of the ~~((investigation))~~ record check.

(e) If the applicant for employment has had a record check within the previous two years, the district, the Washington center for deaf and hard of hearing youth, the state school for the blind, the office of the superintendent of public instruction, or contractor may waive the requirement.

(f) Except as provided in subsection (2) of this section, the school district, pursuant to chapter 41.59 or 41.56 RCW, the Washington center for deaf and hard of hearing youth, the state school for the blind, the office of the superintendent of public instruction, or contractor hiring the employee shall determine who shall pay costs associated with the record check.

(2) Federal bureau of Indian affairs-funded schools may use the process in subsection (1)(a) of this section to perform record checks for their employees and applicants for employment.

(3)(a) School districts, educational service districts, the Washington center for deaf and hard of hearing youth, the state school for the blind, federal bureau of Indian affairs-funded schools, charter schools established under chapter 28A.710 RCW, schools that are the subject of a state-tribal education compact under chapter 28A.715 RCW, and their contractors may use the process in subsection (1)(a) of this section to perform record checks for any prospective volunteer who will have regularly scheduled unsupervised access to children under eighteen years of age or (~~developmentally disabled~~) persons with developmental disabilities, during the course of his or her involvement with the school or organization under circumstances where access will or may involve the following:

(i) Groups of five or fewer children under twelve years of age;

(ii) Groups of three or fewer children between twelve and eighteen years of age; or

(iii) (~~Developmentally disabled~~) Persons with developmental disabilities.

(b) For purposes of (a) of this subsection, "unsupervised" means not in the presence of:

(i) Another employee or volunteer from the same school or organization; or

(ii) Any relative or guardian of any of the children or (~~developmentally disabled~~) persons with developmental disabilities to which the prospective employee or volunteer has access during the course of his or her involvement with the school or organization.

(4) Individuals who hold a valid portable background check clearance card issued by the department of children, youth, and families consistent with RCW 43.216.270 can meet the requirements in subsection (1) of this section by providing a true and accurate copy of their Washington state patrol and federal bureau of investigation background report results to the office of the superintendent of public instruction.

(5) The cost of record checks must include: The fees established by the Washington state patrol and the federal bureau of investigation for the criminal history background checks; a fee paid to the superintendent of public instruction for the cost of administering this section and RCW 28A.195.080 and 28A.410.010; and other applicable fees for obtaining the fingerprints.

Passed by the House February 17, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 23

[Engrossed Substitute House Bill 2265]

FIREFIGHTING FOAM--USE OF CERTAIN CHEMICALS

AN ACT Relating to eliminating exemptions from restrictions on the use of perfluoroalkyl and polyfluoroalkyl substances in firefighting foam; and amending RCW 70.75A.020.

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

Sec. 1. RCW 70.75A.020 and 2018 c 286 s 3 are each amended to read as follows:

(1) Beginning July 1, 2020, a manufacturer of class B firefighting foam may not manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state class B firefighting foam to which PFAS chemicals have been intentionally added.

(2)(a) The restrictions in subsection (1) of this section do not apply to any manufacture, sale, or distribution of class B firefighting foam where the inclusion of PFAS chemicals are required by federal law, including but not limited to the requirements of 14 C.F.R. 139.317, as that section existed as of January 1, 2018.

(b) In the event that the requirements of 14 C.F.R. Sec. 139.317 or other applicable federal regulations change after January 1, 2018, to allow the use of alternative firefighting agents that do not contain PFAS chemicals, then ((the department may adopt rules that restrict PFAS chemicals for the manufacture, sale, and distribution of firefighting foam for uses that are addressed by the federal regulation)) as of the effective date of that change, the department shall publish a finding to that effect in the Washington State Register and submit this finding to the appropriate committees of the house of representatives and the senate. The department's publication regarding a change in the federal regulations must be specific with respect to the involved federal agency and use and, if identified by the federal agency, the alternative firefighting agent. Two years after publication in the Washington State Register, the restrictions of subsection (1) of this section apply to the manufacture, sale, and distribution of class B firefighting foam that contains intentionally added PFAS chemicals for the uses specified in 14 C.F.R. Sec. 139.317 or other applicable federal regulations. However, the restrictions of subsection (1) of this section do not take effect for an additional year if all of the airports in Washington certificated under 14 C.F.R. Sec. 139 have not been able to secure alternative firefighting agents and any necessary infrastructure to apply the agent in order to meet certification requirements, as determined by the department. Eighteen months after the department's original publication in the Washington State Register, each section 139 licensed airport shall report to the department on the airport's status with respect to obtaining alternative firefighting agents approved by the federal aviation administration and any necessary infrastructure. The department must publish a second notice delaying the restrictions under subsection (1) of this section for an additional year if the department has determined that any section 139 airport is unable to secure alternative firefighting agents without intentionally added PFAS chemicals or infrastructure to meet certification requirements because the agents or infrastructure are not commercially available.

(3)(a) The restrictions in subsection (1) of this section do not apply until January 1, 2024, to any manufacture, sale, or distribution of class B firefighting foam to a person for use at a terminal, as defined in RCW 82.23A.010, operated by the person, a chemical plant operated by the person, or an oil refinery operated by the person.

(b) A person who operates a chemical plant, refinery, or terminal may apply to the department for a waiver. A waiver may only be for two years and may

only be extended by the department for one additional two-year term. The department may grant a waiver if the applicant provides:

(i) Clear and convincing evidence that there is no commercially available replacement that does not contain intentionally added PFAS chemicals that is capable of suppressing a large atmospheric storage tank fire;

(ii) Information on the amount of firefighting foam containing intentionally added PFAS chemicals stored, used, or released on site on an annual basis;

(iii) A report on the progress being made by the operator of the chemical plant, terminal, or refinery to transition to use of firefighting foam at the facility that does not contain intentionally added PFAS chemicals; and

(iv) An explanation of how all releases of firefighting foam will be fully contained on site and how existing containment measures will not allow firewater, wastewater, runoff, and other wastes to be released to the environment including, but not limited to, soils, groundwater, waterways, and stormwater.

(c) Nothing in this section prohibits an oil refinery or terminal from providing class B firefighting foam in the form of mutual aid to another refinery or terminal in the event of a class B fire.

~~((4) The restrictions in subsection (1) of this section do not apply to any manufacture, sale, or distribution of class B firefighting foam to a person for use at a chemical plant operated by the person.))~~

Passed by the House February 16, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 24

[House Bill 2271]

TRANSPORTATION FUNDING BONDS--CORRECTION OF BUDGET REFERENCE

AN ACT Relating to correcting a reference to an omnibus transportation appropriations act within a prior authorization of general obligation bonds for transportation funding; and amending RCW 47.10.873.

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

Sec. 1. RCW 47.10.873 and 2007 c 519 s 4 are each amended to read as follows:

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))~~ an omnibus transportation ~~((budget chapter 313, Laws of 2005))~~ appropriations act, there shall be issued and sold upon the request of the department of transportation a total of five billion three hundred million dollars of general obligation bonds of the state of Washington.

Passed by the House February 12, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 25

[Substitute House Bill 2295]

SMALL CLAIMS COURT JUDGMENTS--ENFORCEMENT

AN ACT Relating to enforcement of small claims court judgments; and amending RCW 12.40.105.

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

Sec. 1. RCW 12.40.105 and 2019 c 251 s 5 are each amended to read as follows:

(1) Upon the judge's entry of judgment in a small claims action, the judgment is certified as a district court civil judgment and shall be increased by: (a) The amount specified in RCW 36.18.012(2); (b) any post judgment interest provided for in RCW 4.56.110 and 19.52.020; and (c) any other costs incurred by the prevailing party to enforce the judgment, including but not limited to reasonable attorneys' fees, without regard to the jurisdictional limits on the small claims department.

(2) The clerk of the small claims department shall enter the civil judgment on the judgment docket of the district court; and, ~~((as in other judgments of district courts, once the judgment is entered on the district court's docket))~~ if the losing party fails to pay the judgment within thirty days after such entry, garnishment, execution, and other process on execution provided by law may issue thereon.

(3) A certified copy of the district court judgment shall be provided to the prevailing party for no additional fee.

(4) ~~((The))~~ If the losing party fails to pay the judgment within thirty days after entry of the judgment on the judgment docket of the district court, the prevailing party may file a transcript of the district court civil judgment or a certified copy of the district court judgment with superior courts for entry in the superior courts' lien dockets with like effect as in other cases.

Passed by the House February 19, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 26

[Engrossed Substitute House Bill 2318]

CRIMINAL INVESTIGATORY PRACTICES--VARIOUS PROVISIONS

AN ACT Relating to advancing criminal investigatory practices; amending RCW 5.70.010, 70.125.090, 70.125.100, 43.43.545, 43.43.754, 63.21.010, 63.21.020, 63.21.030, 63.21.050, and 63.21.060; adding new sections to chapter 5.70 RCW; adding a new section to chapter 43.101 RCW; adding a new section to chapter 63.21 RCW; adding a new section to chapter 63.32 RCW; adding a new section to chapter 63.40 RCW; creating a new section; recodifying RCW 70.125.090 and 70.125.100; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 5.70.010 and 2015 c 221 s 1 are each amended to read as follows:

(1) In any felony case initially charged as a violent or sex offense, as defined in RCW 9.94A.030, a governmental entity shall preserve any DNA work

product that has been secured in connection with the criminal case, including related investigatory reports and records, according to the following guidelines:

(a) Except as provided in (b) of this subsection, where a defendant has been charged and convicted in connection with the case, the DNA work product and investigatory reports and records must be maintained throughout the length of the sentence, including any period of community custody extending through final discharge;

(b) Where a defendant has been convicted and sentenced under RCW 9.94A.507 in connection with the case, the DNA work product and investigatory reports and records must be maintained for ninety-nine years or until the death of the defendant, whichever is sooner; and

(c) Where no conviction has been made in connection with the case, the DNA work product and investigatory reports and records must be maintained for ninety-nine years or throughout the period of the statute of limitations pursuant to RCW 9A.04.080, whichever is sooner.

(2) Notwithstanding subsection (1) of this section, in any felony case regardless of whether the identity of the offender is known and law enforcement has probable cause sufficient to believe the elements of a violent or sex offense as defined in RCW 9.94A.030 have been committed, a governmental entity shall preserve any DNA work product ~~(, including a sexual assault examination kit,)~~ secured in connection with the criminal case and investigatory reports and records for ninety-nine years or throughout the period of the statute of limitations pursuant to RCW 9A.04.080, whichever is sooner.

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

~~(a) "Amplified DNA" means DNA generated during scientific analysis using a polymerase chain reaction.~~

~~(b) "DNA work product" means (i) product generated during the process of scientific analysis of such material, except amplified DNA, material that had been subjected to DNA extraction, and DNA extracts from reference samples; or (ii) any material contained on a microscope slide, swab, in a sample tube, cutting, DNA extract, or some other similar retention method used to isolate potential biological evidence that has been collected by law enforcement as part of its investigation and prepared for scientific analysis, whether or not it is submitted for scientific analysis and derived from:~~

~~(A) The contents of a sexual assault examination kit;~~

~~(B) Blood;~~

~~(C) Semen;~~

~~(D) Hair;~~

~~(E) Saliva;~~

~~(F) Skin tissue;~~

~~(G) Fingerprints;~~

~~(H) Bones;~~

~~(I) Teeth; or~~

~~(J) Any other identifiable human biological material or physical evidence.~~

~~Notwithstanding the foregoing, "DNA work product" does not include a reference sample collected unless it has been shown through DNA comparison to associate the source of the sample with the criminal case for which it was collected.~~

~~(c) "Governmental entity" means any general law enforcement agency or any person or organization officially acting on behalf of the state or any political subdivision of the state involved in the collection, examination, tracking, packaging, storing, or disposition of biological material collected in connection with a criminal investigation relating to a felony offense.~~

~~(d) "Reference sample" means a known sample collected from an individual by a governmental entity for the purpose of comparison to DNA profiles developed in a criminal case.~~

(4)) The failure of a law enforcement agency to preserve DNA work product does not constitute grounds in any criminal proceeding for challenging the admissibility of other DNA work product that was preserved in a case, and any evidence offered may not be excluded by a court on those grounds. The court may not set aside the conviction or sentence or order the reversal of a conviction under this section on the grounds that the DNA work product is no longer available. Unless the court finds that DNA work product was destroyed with malicious intent to violate this section, a person accused of committing a crime against a person has no cause of action against a law enforcement agency for failure to comply with the requirements of this section. If the court finds that DNA work product was destroyed with malicious intent to violate this section, the court may impose appropriate sanctions. Nothing in this section may be construed to create a private right of action on the part of any individual or entity against any law enforcement agency or any contractor of a law enforcement agency.

NEW SECTION. Sec. 2. A new section is added to chapter 5.70 RCW to read as follows:

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

(1) "Amplified DNA" means DNA generated during scientific analysis using a polymerase chain reaction.

(2) "DNA work product" means (a) product generated during the process of scientific analysis of such material, except amplified DNA, material that had been subjected to DNA extraction, screening byproducts, and DNA extracts from reference samples; or (b) any material contained on a microscope slide, swab, in a sample tube, cutting, DNA extract, or some other similar retention method used to isolate potential biological evidence that has been collected by law enforcement or a forensic nurse as part of an investigation and prepared for scientific analysis, whether or not it is submitted for scientific analysis and derived from:

- (i) The contents of a sexual assault examination kit;
- (ii) Blood;
- (iii) Semen;
- (iv) Hair;
- (v) Saliva;
- (vi) Skin tissue;
- (vii) Fingerprints;
- (viii) Bones;
- (ix) Teeth; or
- (x) Any other identifiable human biological material or physical evidence.

Notwithstanding the foregoing, "DNA work product" does not include a reference sample collected unless it has been shown through DNA comparison to associate the source of the sample with the criminal case for which it was collected.

(3) "Governmental entity" means any general law enforcement agency or any person or organization officially acting on behalf of the state or any political subdivision of the state involved in the collection, examination, tracking, packaging, storing, or disposition of biological material collected in connection with a criminal investigation relating to a felony offense.

(4) "Reference sample" means a known sample collected from an individual by a governmental entity for the purpose of comparison to DNA profiles developed in a criminal case.

(5) "Screening byproduct" means a product or waste generated during examination of DNA evidence, or the screening process of such evidence, that is not intended for long-term storage.

(6) "Sexual assault kit" includes all evidence collected during a sexual assault medical forensic examination.

(7) "Unreported sexual assault kit" means a sexual assault kit where a law enforcement agency has not received a related report or complaint alleging a sexual assault or other crime has occurred.

NEW SECTION. **Sec. 3.** A new section is added to chapter 5.70 RCW to read as follows:

(1)(a) Any unreported sexual assault kit collected on or after the effective date of this section must be transported from the collecting entity to the applicable local law enforcement agency.

(b) By January 1, 2021, unreported sexual assault kits collected prior to the effective date of this section and stored according to the requirements of RCW 70.125.101 must be transported to the applicable local law enforcement agency.

(2)(a) The applicable local law enforcement agency is responsible for conducting the transport of the unreported sexual assault kit from the collecting entity to the agency as required under subsection (1) of this section.

(b) The applicable law enforcement agency shall store and preserve the unreported sexual assault kit for twenty years from the date of collection.

(3) The term "applicable local law enforcement agency" refers to the local law enforcement agency that would have jurisdiction to investigate any related criminal allegations if they were to be reported to law enforcement. The applicable local law enforcement agency is determined through consultation between the collecting entity or, in the case of unreported sexual assault kits stored according to the requirements of RCW 70.125.101, the Washington state patrol, and local law enforcement agencies.

Sec. 4. RCW 70.125.090 and 2019 c 93 s 6 are each amended to read as follows:

(1) When a law enforcement agency receives a sexual assault kit, the law enforcement agency must, within thirty days of its receipt, submit a request for laboratory examination to the Washington state patrol crime laboratory for prioritization for testing by it or another accredited laboratory that holds an outsourcing agreement with the Washington state patrol if:

(a) The law enforcement agency has received a related report or complaint alleging a sexual assault or other crime has occurred; and

(b)(i) Consent for laboratory examination has been given by the victim; or

(ii) The victim is a person under the age of eighteen who is not emancipated pursuant to chapter 13.64 RCW.

(2) Beginning May 1, 2022, when the Washington state patrol receives a request for laboratory examination of a sexual assault kit from a law enforcement agency, the Washington state patrol shall conduct the laboratory examination of the sexual assault kit, and when appropriate, enter relevant information into the combined DNA index system, within forty-five days of receipt of the request. The Washington state patrol crime laboratory must give priority to the laboratory examination of sexual assault kits at the request of a local law enforcement agency for:

(a) Active investigations and cases with impending court dates;

(b) Active investigations where public safety is an immediate concern;

(c) Violent crimes investigations, including active sexual assault investigations;

(d) Postconviction cases; and

(e) Other crimes' investigations and nonactive investigations, such as previously unsubmitted older sexual assault kits or recently collected sexual assault kits that the submitting agency has determined to be lower priority based on their initial investigation.

(3) The requirements to request and complete laboratory examination of sexual assault kits under subsections (1) and (2) of this section do not include forensic toxicological analysis. However, nothing in this section limits or modifies the authority of a law enforcement agency to request toxicological analysis of evidence collected in a sexual assault kit.

(4) The failure of a law enforcement agency to submit a request for laboratory examination, or the failure of the Washington state patrol to facilitate laboratory examination, within the time periods prescribed under this section does not constitute grounds in any criminal proceeding for challenging the validity of a DNA evidence association, and any evidence obtained from the sexual assault kit may not be excluded by a court on those grounds.

~~((4))~~ (5) A person accused or convicted of committing a crime against a victim has no standing to object to any failure to comply with the requirements of this section, and the failure to comply with the requirements of this section is not grounds for setting aside the conviction or sentence.

~~((5))~~ (6) Nothing in this section may be construed to create a private right of action or claim on the part of any individual, entity, or agency against any law enforcement agency or any contractor of any law enforcement agency.

~~((6))~~ (7) This section applies ~~((prospectively only and not retroactively. It only applies))~~ to sexual assault examinations performed on or after July 24, 2015.

~~((7))~~ (8)(a) Until June 30, 2023, the Washington state patrol shall compile the following information related to the sexual assault kits identified in this section and RCW 70.125.100 ~~((as recodified by this act))~~:

(i) The number of requests for laboratory examination made for sexual assault kits and the law enforcement agencies that submitted the requests; and

(ii) The progress made towards testing the sexual assault kits, including the status of requests for laboratory examination made by each law enforcement agency.

(b) The Washington state patrol shall make recommendations for increasing the progress on testing any untested sexual assault kits.

(c) Beginning in 2015, the Washington state patrol shall report its findings and recommendations annually to the appropriate committees of the legislature and the governor by December 1st of each year.

Sec. 5. RCW 70.125.100 and 2019 c 93 s 7 are each amended to read as follows:

(1) Law enforcement agencies shall submit requests for forensic analysis of all sexual assault kits collected prior to July 24, 2015, and in the possession of the agencies to the Washington state patrol crime laboratory by October 1, 2019, except submission for forensic analysis is not required when: (a) Forensic analysis has previously been conducted; (b) there is documentation of an adult victim or emancipated minor victim expressing that he or she does not want his or her sexual assault kit submitted for forensic analysis; or (c) a sexual assault kit is noninvestigatory and held by a law enforcement agency pursuant to an agreement with a hospital or other medical provider. The requirements of this subsection apply regardless of the statute of limitations or the status of any related investigation.

(2) The Washington state patrol crime laboratory may consult with local law enforcement agencies to coordinate the efficient submission of requests for forensic analysis under this section in conjunction with the implementation of the statewide tracking system under RCW 43.43.545, provided that all requests are submitted and all required information is entered into the statewide sexual assault tracking system by October 1, 2019. The Washington state patrol crime laboratory shall facilitate the forensic analysis of all sexual assault kits submitted under this section by December 1, 2021. The analysis may be conducted by the Washington state patrol laboratory or an accredited laboratory holding a contract or agreement with the Washington state patrol. The Washington state patrol shall process the forensic analysis of sexual assault kits in accordance with the priorities in RCW 70.125.090(2) (as recodified by this act).

(3) The requirements to request and complete laboratory examination of sexual assault kits under this section do not include forensic toxicological analysis. However, nothing in this section limits or modifies the authority of a law enforcement agency to request toxicological analysis of evidence collected in a sexual assault kit.

(4) The failure of a law enforcement agency to submit a request for laboratory examination within the time prescribed under this section does not constitute grounds in any criminal proceeding for challenging the validity of a DNA evidence association, and any evidence obtained from the sexual assault kit may not be excluded by a court on those grounds.

~~((4))~~ (5) A person accused or convicted of committing a crime against a victim has no standing to object to any failure to comply with the requirements of this section, and the failure to comply with the requirements of this section is not grounds for setting aside the conviction or sentence.

~~((5))~~ (6) Nothing in this section may be construed to create a private right of action or claim on the part of any individual, entity, or agency against any law enforcement agency or any contractor of any law enforcement agency.

Sec. 6. RCW 43.43.545 and 2019 c 93 s 4 are each amended to read as follows:

(1) The Washington state patrol shall create and operate a statewide sexual assault kit tracking system. The Washington state patrol may contract with state or nonstate entities including, but not limited to, private software and technology providers, for the creation, operation, and maintenance of the system.

(2) The statewide sexual assault kit tracking system must:

(a) Track the location and status of sexual assault kits throughout the criminal justice process, including the initial collection in examinations performed at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis at forensic laboratories, and storage and any destruction after completion of analysis;

(b) Designate sexual assault kits as unreported or reported;

(c) Indicate whether a sexual assault kit contains biological materials collected for the purpose of forensic toxicological analysis;

~~(d)~~ (d) Allow medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, the Washington state patrol bureau of forensic laboratory services, and other entities having custody of sexual assault kits to update and track the status and location of sexual assault kits;

~~((4))~~ (e) Allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits; and

~~((e))~~ (f) Use electronic technology or technologies allowing continuous access.

(3) The Washington state patrol may use a phased implementation process in order to launch the system and facilitate entry and use of the system for required participants. The Washington state patrol may phase initial participation according to region, volume, or other appropriate classifications. All entities having custody of sexual assault kits shall fully participate in the system no later than June 1, 2018. The Washington state patrol shall submit a report on the current status and plan for launching the system, including the plan for phased implementation, to the joint legislative task force on sexual assault forensic examination best practices, the appropriate committees of the legislature, and the governor no later than January 1, 2017.

(4) The Washington state patrol shall submit a semiannual report on the statewide sexual assault kit tracking system to the joint legislative task force on sexual assault forensic examination best practices, the appropriate committees of the legislature, and the governor. The Washington state patrol may publish the current report on its web site. The first report is due July 31, 2018, and subsequent reports are due January 31st and July 31st of each year. The report must include the following:

(a) The total number of sexual assault kits in the system statewide and by jurisdiction;

(b) The total and semiannual number of sexual assault kits where forensic analysis has been completed statewide and by jurisdiction;

(c) The number of sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(d) The total and semiannual number of sexual assault kits where forensic analysis has been requested but not completed statewide and by jurisdiction;

(e) The average and median length of time for sexual assault kits to be submitted for forensic analysis after being added to the system, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(f) The average and median length of time for forensic analysis to be completed on sexual assault kits after being submitted for analysis, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(g) The total and semiannual number of sexual assault kits destroyed or removed from the system statewide and by jurisdiction;

(h) The total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and six months or more have passed since those sexual assault kits were added to the system; and

(i) The total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and one year or more has passed since those sexual assault kits were added to the system.

(5) For the purpose of reports under subsection (4) of this section, a sexual assault kit must be assigned to the jurisdiction associated with the law enforcement agency anticipated to receive the sexual assault kit or otherwise having custody of the sexual assault kit.

(6) Any public agency or entity, including its officials and employees, and any hospital and its employees providing services to victims of sexual assault may not be held civilly liable for damages arising from any release of information or the failure to release information related to the statewide sexual assault kit tracking system, so long as the release was without gross negligence.

(7) The Washington state patrol shall adopt rules as necessary to implement this section.

(8) For the purposes of this section(~~(, an "unreported sexual assault kit" refers to a sexual assault kit collected from a victim who has consented to the collection of the sexual assault kit but who has not reported the alleged crime to law enforcement)~~):

(a) "Reported sexual assault kit" means a sexual assault kit where a law enforcement agency has received a related report or complaint alleging a sexual assault or other crime has occurred;

(b) "Sexual assault kit" includes all evidence collected during a sexual assault medical forensic examination; and

(c) "Unreported sexual assault kit" means a sexual assault kit where a law enforcement agency has not received a related report or complaint alleging a sexual assault or other crime has occurred.

Sec. 7. RCW 43.43.754 and 2019 c 443 s 3 are each amended to read as follows:

(1) A biological sample must be collected for purposes of DNA identification analysis from:

(a) Every adult or juvenile individual convicted of a felony, or any of the following crimes (or equivalent juvenile offenses):

(i) Assault in the fourth degree where domestic violence as defined in RCW 9.94A.030 was pleaded and proven (RCW 9A.36.041, 9.94A.030);

(ii) Assault in the fourth degree with sexual motivation (RCW 9A.36.041, 9.94A.835);

(iii) Communication with a minor for immoral purposes (RCW 9.68A.090);

(iv) Custodial sexual misconduct in the second degree (RCW 9A.44.170);

(v) Failure to register (chapter 9A.44 RCW);

(vi) Harassment (RCW 9A.46.020);

(vii) Patronizing a prostitute (RCW 9A.88.110);

(viii) Sexual misconduct with a minor in the second degree (RCW 9A.44.096);

(ix) Stalking (RCW 9A.46.110);

(x) Indecent exposure (RCW 9A.88.010);

(xi) Violation of a sexual assault protection order granted under chapter 7.90 RCW; and

(b) Every adult or juvenile individual who is required to register under RCW 9A.44.130.

(2)(a) A municipal jurisdiction may also submit any biological sample to the laboratory services bureau of the Washington state patrol for purposes of DNA identification analysis when:

(i) The sample was collected from a defendant upon conviction for a municipal offense where the underlying ordinance does not adopt the relevant state statute by reference but the offense is otherwise equivalent to an offense in subsection (1)(a) of this section;

(ii) The equivalent offense in subsection (1)(a) of this section was an offense for which collection of a biological sample was required under this section at the time of the conviction; and

(iii) The sample was collected on or after June 12, 2008, and before January 1, 2020.

(b) When submitting a biological sample under this subsection, the municipal jurisdiction must include a signed affidavit from the municipal prosecuting authority of the jurisdiction in which the conviction occurred specifying the state crime to which the municipal offense is equivalent.

(3) Law enforcement may submit to the forensic laboratory services bureau of the Washington state patrol, for purposes of DNA identification analysis, any lawfully obtained biological sample within its control from a deceased offender who was previously convicted of an offense under subsection (1)(a) of this section, regardless of the date of conviction.

(4) If the Washington state patrol crime laboratory already has a DNA sample from an individual for a qualifying offense, a subsequent submission is not required to be submitted.

(5) Biological samples shall be collected in the following manner:

(a) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who do not serve a term of confinement in a department of corrections facility or a department of children, youth, and families facility, and are serving a term of confinement in a

city or county jail facility, the city or county jail facility shall be responsible for obtaining the biological samples.

(b) The local police department or sheriff's office shall be responsible for obtaining the biological samples for:

(i) Persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who do not serve a term of confinement in a department of corrections facility, department of children, youth, and families facility, or a city or county jail facility; and

(ii) Persons who are required to register under RCW 9A.44.130.

(c) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who are serving or who are to serve a term of confinement in a department of corrections facility or a department of children, youth, and families facility, the facility holding the person shall be responsible for obtaining the biological samples as part of the intake process. If the facility did not collect the biological sample during the intake process, then the facility shall collect the biological sample as soon as is practicable. For those persons incarcerated before June 12, 2008, who have not yet had a biological sample collected, priority shall be given to those persons who will be released the soonest.

~~((6))~~ (d) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who will not serve a term of confinement, the court shall ~~((order))~~: Order the person to report to the local police department or sheriff's office as provided under subsection (5)(b)(i) of this section within a reasonable period of time established by the court in order to provide a biological sample; or if the local police department or sheriff's office has a protocol for collecting the biological sample in the courtroom, order the person to immediately provide the biological sample to the local police department or sheriff's office before leaving the presence of the court. The court must further inform the person that refusal to provide a biological sample is a gross misdemeanor under this section.

~~((7))~~ (6) Any biological sample taken pursuant to RCW 43.43.752 through 43.43.758 may be retained by the forensic laboratory services bureau, and shall be used solely for the purpose of providing DNA or other tests for identification analysis and prosecution of a criminal offense or for the identification of human remains or missing persons. Nothing in this section prohibits the submission of results derived from the biological samples to the federal bureau of investigation combined DNA index system.

~~((8))~~ (7) The forensic laboratory services bureau of the Washington state patrol is responsible for testing performed on all biological samples that are collected under this section, to the extent allowed by funding available for this purpose. Known duplicate samples may be excluded from testing unless testing is deemed necessary or advisable by the director.

~~((9))~~ (8) This section applies to:

(a) All adults and juveniles to whom this section applied prior to June 12, 2008;

(b) All adults and juveniles to whom this section did not apply prior to June 12, 2008, who:

(i) Are convicted on or after June 12, 2008, of an offense listed in subsection (1)(a) of this section on the date of conviction; or

(ii) Were convicted prior to June 12, 2008, of an offense listed in subsection (1)(a) of this section and are still incarcerated on or after June 12, 2008;

(c) All adults and juveniles who are required to register under RCW 9A.44.130 on or after June 12, 2008, whether convicted before, on, or after June 12, 2008; and

(d) All samples submitted under subsections (2) and (3) of this section.

~~((+0))~~ (9) This section creates no rights in a third person. No cause of action may be brought based upon the noncollection or nonanalysis or the delayed collection or analysis of a biological sample authorized to be taken under RCW 43.43.752 through 43.43.758.

~~((+1))~~ (10) The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the sample was obtained or placed in the database by mistake, or if the conviction or juvenile adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including but not limited to posttrial or postfact-finding motions, appeals, or collateral attacks. No cause of action may be brought against the state based upon the analysis of a biological sample authorized to be taken pursuant to a municipal ordinance if the conviction or adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including, but not limited to, posttrial or postfact-finding motions, appeals, or collateral attacks.

~~((+2))~~ (11) A person commits the crime of refusal to provide DNA if the person willfully refuses to comply with a legal request for a DNA sample as required under this section. The refusal to provide DNA is a gross misdemeanor.

NEW SECTION. Sec. 8. A new section is added to chapter 43.101 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall develop a proposal for a case review program. The commission shall research, design, and develop case review strategies designed to optimize outcomes in sexual assault investigations through improved training and investigatory practices. The proposed program must evaluate whether current training and practices foster a trauma-informed, victim-centered approach to victim interviews that identifies best practices and current gaps in training and assesses the integration of the community resiliency model. The program will include a comparison of cases involving investigators and interviewers who have participated in training to cases involving investigators and interviewers who have not participated in training. The program will also include other randomly selected cases for a systematic review to assess whether current practices conform to national best practices for a multidisciplinary approach to investigating sexual assault cases and interacting with survivors.

(2) In designing the program, the commission shall consult and collaborate with experts in trauma-informed and victim-centered training, experts in sexual assault investigations and prosecutions, victim advocates, and other stakeholders identified by the commission. The commission may form a multidisciplinary working group for the purpose of carrying out the requirements of this section.

(3) The commission shall submit a report with a summary of its proposal to the governor and the appropriate committees of the legislature by December 1, 2020.

(4) This section expires July 1, 2021.

NEW SECTION. Sec. 9. The legislature recognizes that proper storage and preservation of evidence, including maintaining chain of custody requirements, are critical to any successful investigation and prosecution. Unreported sexual assault kits are, therefore, most appropriately stored and preserved by law enforcement agencies. The legislature further recognizes that some agencies are facing storage capacity constraints. Agencies are currently responsible for storing found property, regardless if the property is associated with a criminal investigation. Therefore, the legislature hereby intends to provide flexibility for local governments to designate an alternate entity to store found property in order to allow those agencies with capacity issues to prioritize storage space for evidence and potential evidence in criminal investigations.

Sec. 10. RCW 63.21.010 and 1997 c 237 s 1 are each amended to read as follows:

(1) Any person who finds property that is not unlawful to possess, the owner of which is unknown, and who wishes to claim the found property, shall:

(a) Within seven days of the finding acquire a signed statement setting forth an appraisal of the current market value of the property prepared by a qualified person engaged in buying or selling like items or by a district court judge, unless the found property is cash; and

(b) Within seven days report the find of property and surrender, if requested, the property and a copy of the evidence of the value of the property to the chief law enforcement officer, ~~((or))~~ his or her designated representative, or other designated entity under section 15 of this act, of the governmental entity where the property was found, and serve written notice upon the officer or designee of the finder's intent to claim the property if the owner does not make out his or her right to it under this chapter.

(2) Within thirty days of the report the governmental entity shall cause notice of the finding to be published at least once a week for two successive weeks in a newspaper of general circulation in the county where the property was found, unless the appraised value of the property is less than the cost of publishing notice. If the value is less than the cost of publishing notice, the governmental entity may cause notice to be posted or published in other media or formats that do not incur expense to the governmental entity.

Sec. 11. RCW 63.21.020 and 1979 ex.s. c 85 s 2 are each amended to read as follows:

The finder's claim to the property shall be extinguished:

(1) If the owner satisfactorily establishes, within sixty days after the find was reported to the appropriate officer or, if so designated under section 15 of this act, the appropriate entity, the owner's right to possession of the property; or

(2) If the chief law enforcement officer or designee determines and so informs the finder that the property is illegal for the finder to possess.

Sec. 12. RCW 63.21.030 and 1997 c 237 s 2 are each amended to read as follows:

(1) The found property shall be released to the finder and become the property of the finder sixty days after the find was reported to the appropriate officer or designee if no owner has been found, or sixty days after the final disposition of any judicial or other official proceeding involving the property,

whichever is later. The property shall be released only after the finder has presented evidence of payment to the treasurer of the governmental entity handling the found property, the amount of ten dollars plus the amount of the cost of publication of notice incurred by the (~~government~~ ~~[governmental]~~) governmental entity pursuant to RCW 63.21.010, which amount shall be deposited in the general fund of the governmental entity. If the appraised value of the property is less than the cost of publication of notice of the finding, then the finder is not required to pay any fee.

(2) When ninety days have passed after the found property was reported to the appropriate officer or designee, or ninety days after the final disposition of a judicial or other proceeding involving the found property, and the finder has not completed the requirements of this chapter, the finder's claim shall be deemed to have expired and the found property may be disposed of as unclaimed property under chapter 63.32 or 63.40 RCW. Such laws shall also apply whenever a finder states in writing that he or she has no intention of claiming the found property.

Sec. 13. RCW 63.21.050 and 2019 c 30 s 1 are each amended to read as follows:

(1) The chief law enforcement officer (~~(or)~~), his or her designated representative, or other designated entity under section 15 of this act to whom a finder surrenders property, must:

(a) Advise the finder if the found property is illegal for him or her to possess;

(b) Advise the finder if the found property is to be held as evidence in judicial or other official proceedings;

(c) Advise the finder in writing of the procedures to be followed in claiming the found property;

(d) If the property is valued at one hundred dollars or less adjusted for inflation under subsection (2) of this section, allow the finder to retain the property if it is determined there is no reason for the officer or designee to retain the property;

(e) If the property exceeds one hundred dollars adjusted for inflation under subsection (2) of this section in value and has been requested to be surrendered to the (~~law enforcement agency~~) governmental entity, retain the property for sixty days before it can be claimed by the finder under this chapter, unless the owner has recovered the property;

(f) If the property is held as evidence in judicial or other official proceedings, retain the property for sixty days after the final disposition of the judicial or other official proceeding, before it can be claimed by the finder or owner under the provisions of this chapter;

(g) After the required number of days have passed, and if no owner has been found, surrender the property to the finder according to the requirements of this chapter; or

(h) If neither the finder nor the owner claim the property retained by the officer or designee within thirty days of the time when the claim can be made, the property must be disposed of as unclaimed property under chapter 63.32 or 63.40 RCW.

(2)(a) The office of financial management must adjust the dollar thresholds established in subsection (1)(d) and (e) of this section for inflation every five years, beginning July 1, 2025, based upon changes in the Seattle consumer price

index during that time period. The office of financial management must calculate the new dollar threshold and transmit the new dollar threshold, rounded up to the nearest dollar, to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

(b) For the purposes of determining the thresholds in subsection (1)(d) and (e) of this section, the chief law enforcement officer ((~~o~~)), his or her designated representative, or other designated entity under section 15 of this act must use the latest thresholds published by the office of financial management in the Washington State Register under (a) of this subsection.

Sec. 14. RCW 63.21.060 and 1979 ex.s. c 85 s 6 are each amended to read as follows:

Any governmental entity that acquires lost property shall attempt to notify the apparent owner of the property. If the property is not returned to a person validly establishing ownership or right to possession of the property, the governmental entity shall forward the lost property within thirty days but not less than ten days after the time the governmental entity acquires the lost property to the chief law enforcement officer, ((~~o~~)) his or her designated representative, or other designated entity under section 16 of this act, of the county in which the property was found, except that if the property is found within the borders of a city or town the property shall be forwarded to the chief law enforcement officer of the city or town ((~~o~~)), his or her designated representative, or other entity of the city or town so designated under section 15 of this act. A governmental entity may elect to retain property which it acquires and dispose of the property as provided by chapter 63.32 or 63.40 RCW.

NEW SECTION. Sec. 15. A new section is added to chapter 63.21 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, a county, city, or town may designate an alternate department or governmental entity to accept, store, retain, and dispose of found property as required under this chapter, rather than the chief law enforcement officer or his or her designee, so long as the alternate department or governmental entity complies with the requirements and procedures under this chapter.

(2) Regardless of whether a county, city, or town designates an alternate department or governmental entity under subsection (1) of this section, the chief law enforcement officer or his or her designated representative is responsible for retaining any of the following types of property in accordance with the requirements of this chapter: A bank card; charge or credit card; cash; government-issued document, financial document, or legal document; firearm; evidence in a judicial or other official proceeding; or an item that is not legal for the finder to possess. A county, city, or town designating an alternate department or governmental entity under subsection (1) of this section shall establish procedures for ensuring these types of property are directed to the chief law enforcement officer or his or her designated representative.

NEW SECTION. Sec. 16. A new section is added to chapter 63.32 RCW to read as follows:

(1) This chapter does not modify the requirements for a police department to accept found property under chapter 63.21 RCW.

(2) If a city or town designates an alternate department or governmental entity to accept found property under section 15 of this act:

(a) The designated department or governmental entity shall comply with the retention and disposition requirements under this chapter in the same manner as would be required of a police department; and

(b) The police department is not required to accept found property from a finder of said property, unless the property is any of the following: A bank card; charge or credit card; cash; government-issued document, financial document, or legal document; firearm; evidence in a judicial or other official proceeding; or an item that is not legal for the finder to possess. Such found property accepted by a police department must be retained or disposed of in accordance with this chapter and other applicable state laws.

NEW SECTION. Sec. 17. A new section is added to chapter 63.40 RCW to read as follows:

(1) This chapter does not modify the requirements for a sheriff to accept found property under chapter 63.21 RCW.

(2) If a county designates an alternate department or governmental entity to accept found property under section 15 of this act:

(a) The designated department or governmental entity shall comply with the disposition requirements under this chapter in the same manner as would be required of the sheriff; and

(b) The sheriff is not required to accept found property from a finder of said property, unless the property is any of the following: A bank card; charge or credit card; cash; government-issued document, financial document, or legal document; firearm; evidence in a judicial or other official proceeding; or an item that is not legal for the finder to possess. Such found property accepted by a sheriff must be retained or disposed of in accordance with this chapter and other applicable state laws.

NEW SECTION. Sec. 18. RCW 70.125.090 and 70.125.100 are each recodified as sections in chapter 5.70 RCW.

NEW SECTION. Sec. 19. Section 3 of this act takes effect June 30, 2020.

Passed by the House March 7, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 27

[Engrossed Second Substitute House Bill 2405]

COMMERCIAL PROPERTY CLEAN ENERGY AND RESILIENCY--FINANCING PROGRAM

AN ACT Relating to commercial property assessed clean energy and resilience; and adding a new chapter to Title 36 RCW.

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

NEW SECTION. Sec. 1. (1) The legislature finds that the efficiency and resiliency of buildings in Washington is essential for ensuring the health and safety of residents, employees, and tenants; for using water and energy more efficiently; and for economic development of our communities. Buildings in

Washington have significant needs for resiliency retrofits, including seismic improvements, stormwater management, flood mitigation, wildfire and wind resistance, and for clean energy and energy efficiency improvements, but these improvements often have high up-front capital costs.

(2) This chapter authorizes the establishment of a commercial property assessed clean energy and resiliency ("C-PACER") program that jurisdictions can voluntarily implement to ensure that free and willing owners of agricultural, commercial, and industrial properties and of multifamily residential properties with five or more dwelling units can obtain low-cost, long-term financing for qualifying improvements, including energy efficiency, water conservation, renewable energy, and resiliency projects. These improvements are repaid by a voluntary assessment on the property, secured by a county lien, and assigned to a capital provider for all the administrative aspects of billing, collecting, and enforcing the lien and without the accumulation of cost to the county and without the creation of a personal debt obligation to the property owner. The obligation is instead carried by the property and remains with the property until repaid, regardless of any potential transfer of property ownership. After the adoption of a C-PACER program, a county's role is limited to the approval of an assessment and recordation of a C-PACER lien, and administration of the C-PACER program which may be contracted out to a private third party.

(3) The legislature declares that the establishment and operation of a C-PACER program under this chapter serves important public health and safety interests. A qualified improvement as defined in section 2 of this act provides benefit to the public, either in the form of energy or water resource conservation, reduced public health risk, or reduced public emergency response risk. Accordingly, the governing body of a county is authorized to determine that it is convenient and advantageous to adopt a program under this chapter.

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

(1) "Assessment" means the voluntary agreement of a property owner to allow a county to place an annual assessment on their property to repay C-PACER financing.

(2) "Capital provider" means any private entity, their designee, successor, and assigns that makes or funds C-PACER financing under this chapter.

(3) "C-PACER financing" means an investment from a capital provider to a property owner to finance or refinance a qualified project as described under this chapter.

(4) "C-PACER lien" means the lien recorded at the county on the eligible property to secure the voluntary annual assessment, which remains on the property until paid in full.

(5) "Eligible property" means privately owned commercial, industrial, or agricultural real property or multifamily residential real property with five or more dwelling units. Eligible property may be owned by any type of business, corporation, individual, or nonprofit organization permitted by state law.

(6) "Financing agreement" means the contract under which a property owner agrees to repay a capital provider for the C-PACER financing including, but not limited to, details of any finance charges, fees, debt servicing, accrual of interest and penalties, and any terms relating to treatment of prepayment and partial payment of the C-PACER financing.

(7) "Program" means a C-PACER program established under this chapter.

(8) "Program administrator" means the party designated by a county or the department of commerce to administer a C-PACER program. This may be the department of commerce, the county itself, or a third party, provided that the administration procedures used conform to the requirements of this chapter.

(9) "Program guidebook" means a comprehensive document that illustrates the applicable region for a program and establishes any appropriate guidelines, specifications, underwriting and approval criteria, and any standard application forms consistent with the administration of a program and not detailed in this chapter.

(10) "Project application" means an application submitted to a program to demonstrate that a proposed project qualifies for C-PACER financing and for a C-PACER lien.

(11) "Qualified improvement" means a permanent improvement affixed to real property and intended to: (a) Decrease energy consumption or demand through the use of efficiency technologies, products, or activities that reduce or support the reduction of energy consumption, allow for the reduction in demand, or support the production of clean, renewable energy, including but not limited to a product, device, or interacting group of products or devices on the customer's side of the meter that generates electricity, provides thermal energy, or regulates temperature; (b) decrease water consumption or demand and address safe drinking water through the use of efficiency technologies, products, or activities that reduce or support the reduction of water consumption, allow for the reduction in demand, or reduce or eliminate lead from water which may be used for drinking or cooking; or (c) increase resilience, including but not limited to seismic retrofits, flood mitigation, stormwater management, wildfire and wind resistance, energy storage, and microgrids.

(12) "Qualified project" means a project approved by the program administrator, involving the installation or modification of a qualified improvement, including new construction or the adaptive reuse of eligible property with a qualified improvement.

(13) "Region" means a geographical area as determined by a county pursuant to section 4 of this act.

NEW SECTION. Sec. 3. (1)(a) The department of commerce may establish a voluntary statewide C-PACER program that counties may choose to participate in. A county may establish a separate voluntary countywide C-PACER program, provided that it conforms to the requirements of this chapter.

(b) A C-PACER program shall be managed efficiently and transparently, including by:

(i) Making any services that the program may choose to offer to property owners, such as estimating energy savings, overseeing project development, or evaluating alternative equipment installations, priced separately and open to purchase by the property owner from qualified third-party providers;

(ii) Making any properties participating in the program available to receiving impartial terms from all interested and qualifying third-party capital providers;

(iii) Allowing financial underwriting and evaluation to be performed by capital providers; and

(iv) Working in a collaborative working group process with capital providers and other stakeholders to develop the program guidebook and any other relevant documents or forms.

(2) The program shall establish uniform criteria for which projects qualify due to their public benefit for participation in C-PACER programs including, but not limited to, criteria for measuring or determining if investments in energy will reduce greenhouse gas emissions; be effective for reducing energy demand or replacing nonrenewable energy with renewable energy; will be appropriate to meet seismic risks for each region of the state and type of structure; will reduce stormwater or pollution to be significant public benefit; or will reduce the risk of wildfire, flooding, or other natural or human-caused disaster, including how to determine if the public benefit in reduced public risk and emergency response qualifies for inclusion in C-PACER programs.

(3) The program must prepare a program guidebook that must include at minimum:

(a) A sample form bilateral or triparty agreement or agreements, as appropriate, between a county, the property owner, and the capital provider which details the agreement between the county and the property owner to have an assessment placed on the qualified property as repayment for C-PACER financing; an agreement by the county to place a lien on the property to secure the obligation to repay; the obligation of the property owner to repay the C-PACER financing to the capital provider; and an assignment of the C-PACER lien by the county to the capital provider;

(b) A statement that the period of the financing agreement will not exceed the useful life of the qualified project, or weighted average life if more than one qualified improvement is included in the qualified project, that is the basis for the financing agreement;

(c) A description of the application process and eligibility requirements for participation in the program;

(d) A statement explaining the lender consent requirement provided in section 8 of this act;

(e) A statement explaining the review requirement provided by section 4 of this act;

(f) A description of marketing and participant education services to be provided for the program;

(g) A statement specifying that the county has no liability as a result of the agreement; and

(h) A program guidebook need not be completed and adopted prior to accepting and approving applications by a program, so long as the program complies with the provisions of this chapter.

(4) The program administrator must make the program guidebook available for public inspection on the county's or department of commerce's web site.

(5) A county or the department of commerce may contract out the responsibilities of program administration, including the responsibilities of this section, to a public, quasi-public, or private third-party entity.

(6) Any county program guidebook established prior to a statewide program may subsequently include or incorporate by reference any aspect of a statewide program guidebook; however, upon development of a statewide program guidebook with a form agreement or agreements developed pursuant to

subsection (3)(a) of this section, the form agreement or agreements shall be required to be used by all county programs from the time that the first C-PACER lien is recorded under the statewide program, or the department of commerce may incorporate by reference any portion of any county program guidebooks, including a form agreement or agreements, as its program guidebook.

(7) The department of commerce may provide grants to counties to assist in the design and implementation of C-PACER programs under this chapter.

NEW SECTION. Sec. 4. (1) A program must establish a C-PACER application and review process to review and evaluate project applications for C-PACER financing, and prescribe the form and manner of the application. At a minimum, an applicant must demonstrate:

(a) That the project provides a benefit to the public, in the form of energy or water resource conservation, reduced public health risk, or reduced public emergency response risk;

(b) For an existing building: (i) Where energy or water usage improvements are proposed, certification by a licensed professional engineer, or other professional listed in the program guidebook, stating that the proposed qualified improvements will either result in more efficient use or conservation of energy or water, the reduction of greenhouse gas emissions, or the addition of renewable sources of energy or water, or (ii) where resilience improvements are proposed, certification by a licensed professional engineer stating that the qualified improvements will result in improved resilience;

(c) For new construction, certification by a licensed professional engineer stating that the proposed qualified improvements will enable the project to exceed the energy efficiency or water efficiency or renewable energy or renewable water or resilience requirements of the current building code.

(2) The program may charge an application fee to cover the costs of establishing and conducting the application review process.

(3) Upon the denial of an application, the program administrator must provide an opportunity for an adjudicative proceeding subject to the applicable provisions of chapter 34.05 RCW.

(4) After an approved project is completed, an applicant must provide the program written verification, as defined in the program guidebook, stating that the qualified project was properly completed and is operating as intended.

(5) No later than one year after the governing body of a county establishes a program under this chapter, it must begin accepting applications and approving applications.

(6) The department of commerce may adopt rules to implement the voluntary statewide program.

NEW SECTION. Sec. 5. (1) To adopt a program under this chapter, the governing body of a county must take the following actions:

(a) Adopt a resolution or ordinance that includes:

(i) A statement that financing qualified projects, repaid by voluntary assessments on property benefited by C-PACER improvements, is in the public interest for safety, health, and other common good reasons;

(ii) A description of the region in which the program is offered, which:

(A) May include the entire county, which may include both unincorporated and incorporated territory; and

(B) Must be located wholly within the county's jurisdiction; and
 (iii) A statement of the time and place for a public hearing on the proposed program; and

(b) Hold a public hearing at which the public may comment on the proposed program.

(2) A county may designate more than one region. If multiple regions are designated, the regions may be separate, overlapping, or coterminous.

(3) The resolution or ordinance adopted by a county under this section may incorporate the department of commerce program guidebook or any amended versions of that program guidebook, as appropriate, by reference.

(4) A county adopting a C-PACER program pursuant to this chapter may narrow the definition of "qualified improvements" to be consistent with the county's climate goals.

(5) Any combination of counties may agree to jointly implement a program under this chapter. If two or more counties implement a program jointly, a single public hearing held jointly by the cooperating counties is sufficient to satisfy the requirements of this chapter.

(6) If a county elects to join the statewide program administered by the department of commerce, it may adopt a resolution or ordinance in accordance with the requirements of the department.

(7) In lieu of establishing a voluntary statewide program, the department of commerce may produce a program guidebook for reference and use by county programs.

NEW SECTION. Sec. 6. (1) A county shall record each C-PACER lien in the real property records of the county in which the property is located. The lien and release shall be prepared in conformity with chapter 65.04 RCW.

(2) The recording under subsection (1) of this section must contain:

(a) The legal description of the eligible property;

(b) The assessor's parcel number of the property;

(c) The grantor's name, which must be the same as the property owner on the assessment agreement;

(d) The grantee's name, which must be the county in which the property is located;

(e) The date on which the lien was created;

(f) The principal amount of the lien;

(g) The terms and length of the lien; and

(h) A copy of the voluntary assessment agreement between the county and the property owner.

(3) The county shall also record the assignment of the C-PACER lien from the county to the appropriate capital provider.

(4) The lien holder or assignee will record a release upon discharge of the lien. The lien holder may also record a partial release.

NEW SECTION. Sec. 7. (1) The C-PACER lien amount plus any interest, penalties, and charges accrued or accruing on the C-PACER lien:

(a) Takes precedence over all other liens or encumbrances except a lien for taxes imposed by the state, a local government, or a junior taxing district on real property, which liens for taxes shall have priority over such benefit C-PACER

lien, provided existing mortgage holders, if any, have provided written consent described in section 8 of this act; and

(b) Is a first and prior lien, second only to a lien for taxes imposed by the state, a local government, or a junior taxing district against the real property on which the C-PACER lien is imposed, from the date on which the notice of the C-PACER lien is recorded until the C-PACER lien, interest, penalties, and charges accrued or accruing are paid.

(2) The C-PACER lien runs with the land, and that portion of the C-PACER lien that has not yet become due is not accelerated or eliminated by foreclosure of the C-PACER lien or any lien for taxes imposed by the state, a local government, or junior taxing district against the real property on which the C-PACER lien is imposed.

(3) Delinquent installments due on a C-PACER lien incur interest and penalties as specified in the financing agreement.

(4) After the C-PACER lien is recorded as provided in this section, the voluntary assessment and the C-PACER lien may not be contested on the basis that the improvement is not a qualified improvement or that the project is not a qualified project.

(5) Collection and enforcement of delinquent C-PACER liens or C-PACER financing installment payments, including foreclosure, shall remain the responsibility of the capital provider.

(6) The C-PACER lien shall be enforced by the capital provider at any time after one year from the date of delinquency in the same manner that the collection of delinquent real property taxes is enforced by the county under chapter 84.64 RCW, including the provisions of RCW 84.64.040, excepting that a sworn declaration by the capital provider or assignee attesting to the assessment delinquency of at least one year shall be used in lieu of the certificate required under RCW 84.64.050.

(7) The capital provider may sell or assign, for consideration, any and all liens received from the participating county. The capital provider or their assignee shall have and possess the same powers and rights at law or in equity to enforce the C-PACER lien in the same manner as described in subsection (6) of this section.

NEW SECTION. Sec. 8. (1) Before a capital provider may enter into a financing agreement to provide C-PACER financing of a qualified project to a record owner of any eligible property, the capital provider must receive written consent from any holder of a lien, mortgage, or security interest in the real property that the property may participate in the program and that the C-PACER lien will take precedence over all other liens except for a lien for taxes as described in section 7 of this act.

(2) Before a capital provider may enter into a financing agreement to provide C-PACER financing of a qualified project to the record owner of any multifamily residential real property with five or more dwelling units, the program administrator must also receive written consent from any and all holders of affordable housing covenants, restrictions, or regulatory agreements in the real property that the property may participate in the program and that the C-PACER lien will take precedence over all other liens except for a lien for taxes as described in section 7 of this act.

NEW SECTION. Sec. 9. The C-PACER financing through a program established under this chapter may include:

- (1) The cost of materials and labor necessary for installation or modification of a qualified improvement;
- (2) Permit fees;
- (3) Inspection fees;
- (4) Lender's fees;
- (5) Program application and administrative fees;
- (6) Project development and engineering fees;
- (7) Third-party review fees, including verification review fees;
- (8) Capitalized interest;
- (9) Interest reserves;
- (10) Escrow for prepaid property taxes and insurance; or
- (11) Any other fees or costs that may be incurred by the property owner incident to the installation, modification, or improvement on a specific or pro rata basis.

NEW SECTION. Sec. 10. The proposed C-PACER financing for a qualified project may authorize the property owner to:

- (1) Purchase directly the related equipment and materials for the installation or modification of a qualified improvement; and
- (2) Contract directly, including through lease, power purchase agreement, or other service contract, for the installation or modification of a qualified improvement.

NEW SECTION. Sec. 11. A county that adopts a program and designates a program region under this chapter may not:

- (1) Make the issuance of a permit, license, or other authorization from the county to a person who owns property in the region contingent on the person entering into a written contract to repay the financing of a qualified project under this chapter; or
- (2) Otherwise compel a person who owns property in the region to enter into a written contract to repay the financing of a qualified project under this chapter.

NEW SECTION. Sec. 12. The members of the governing body of a county, employees of a county, and board members, executives, and employees under this chapter are not personally liable as a result of exercising any rights or responsibilities granted under this chapter.

NEW SECTION. Sec. 13. A county may not enforce any privately financed debt under this chapter. Neither the state nor any county may use public funds to fund or repay any loan between a capital provider and property owner. No section under this chapter shall be interpreted to pledge, offer, or encumber the full faith and credit of a local government, nor shall any local government pledge, offer, or encumber its full faith and credit for any lien amount through a program.

NEW SECTION. Sec. 14. Sections 1 through 13 of this act constitute a new chapter in Title 36 RCW.

Passed by the House March 7, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 28

[Engrossed Second Substitute House Bill 2467]

FIREARM BACKGROUND CHECK SYSTEM--SINGLE POINT OF CONTACT

AN ACT Relating to establishing a centralized single point of contact background check system for firearms transfers; amending RCW 9.41.114, 43.43.823, 36.28A.405, and 36.28A.420; adding new sections to chapter 43.43 RCW; adding a new section to chapter 9.41 RCW; repealing RCW 36.28A.400; and providing a contingent effective date.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.43 RCW to read as follows:

(1) The Washington state patrol shall establish a firearms background check unit to serve as a centralized single point of contact for dealers to conduct background checks for firearms sales or transfers required under chapter 9.41 RCW and the federal Brady handgun violence prevention act (18 U.S.C. Sec. 921 et seq.). The Washington state patrol shall establish an automated firearms background check system to conduct background checks on applicants for the purchase or transfer of a firearm. The system must include the following characteristics:

(a) Allow a dealer to contact the Washington state patrol through a web portal or other electronic means and by telephone to request a background check of an applicant for the purchase or transfer of a firearm;

(b) Provide a dealer with a notification that a firearm purchase or transfer application has been received;

(c) Assign a unique identifier to the background check inquiry;

(d) Provide an automated response to the dealer indicating whether the transfer may proceed or is denied, or that the check is indeterminate and will require further investigation;

(e) Include measures to ensure data integrity and the confidentiality and security of all records and data transmitted and received by the system; and

(f) Include a performance metrics tracking system to evaluate the performance of the background check system.

(2) Upon receipt of a request from a dealer for a background check in connection with the sale or transfer of a firearm, the Washington state patrol shall:

(a) Provide the dealer with a notification that a firearm transfer application has been received;

(b) Conduct a check of the national instant criminal background check system and the following additional records systems to determine whether the transferee is prohibited from possessing a firearm under state or federal law: (i) The Washington crime information center and Washington state identification system; (ii) the health care authority electronic database; (iii) the federal bureau of investigation national data exchange database and any available repository of statewide local law enforcement record management systems information; (iv) the administrative office of the courts case management system; and (v) other databases or resources as appropriate;

(c) Perform an equivalency analysis on criminal charges in foreign jurisdictions to determine if the applicant has been convicted as defined in RCW 9.41.040(3) and if the offense is equivalent to a Washington felony as defined in RCW 9.41.010(8);

(d) Notify the dealer without delay that the records indicate the individual is prohibited from possessing a firearm and the transfer is denied or that the individual is approved to complete the transfer. If the results of the background check are indeterminate, the Washington state patrol shall notify the dealer of the delay and conduct necessary research and investigation to resolve the inquiry; and

(e) Provide the dealer with a unique identifier for the inquiry.

(3) The Washington state patrol may hold the delivery of a firearm to an applicant under the circumstances provided in RCW 9.41.090 (4) and (5).

(4)(a) The Washington state patrol shall require a dealer to charge each firearm purchaser or transferee a fee for performing background checks in connection with firearms transfers. The fee must be set at an amount necessary to cover the annual costs of operating and maintaining the firearm background check system but shall not exceed eighteen dollars. The Washington state patrol shall transmit the fees collected to the state treasurer for deposit in the state firearms background check system account created in section 3 of this act. It is the intent of the legislature that once the state firearm background check system is established, the fee established in this section will replace the fee required in RCW 9.41.090(7).

(b) The background check fee required under this subsection does not apply to any background check conducted in connection with a pawnbroker's receipt of a pawned firearm or the redemption of a pawned firearm.

(5) The Washington state patrol shall establish a procedure for a person who has been denied a firearms transfer as the result of a background check to appeal the denial to the Washington state patrol and to obtain information on the basis for the denial and procedures to review and correct any erroneous records that led to the denial.

(6) The Washington state patrol shall work with the administrative office of the courts to build a link between the firearm background check system and the administrative office of the courts case management system for the purpose of accessing court records to determine a person's eligibility to possess a firearm.

(7) Upon establishment of the firearm background check system under this section, the Washington state patrol shall notify each dealer in the state of the existence of the system, and the dealer must use the system to conduct background checks for firearm sales or transfers beginning on the date that is thirty days after issuance of the notification.

(8) The Washington state patrol shall consult with the Washington background check advisory board created in section 2 of this act in carrying out its duties under this section.

(9) All records and information prepared, obtained, used, or retained by the Washington state patrol in connection with a request for a firearm background check are exempt from public inspection and copying under chapter 42.56 RCW.

(10) The Washington state patrol may adopt rules necessary to carry out the purposes of this section.

(11) For the purposes of this section, "dealer" has the same meaning as given in RCW 9.41.010.

NEW SECTION. Sec. 2. A new section is added to chapter 43.43 RCW to read as follows:

(1) There is created the Washington background check advisory board. The board shall consist of the following members, appointed by the governor:

- (a) The chief of the Washington state patrol or the chief's designee;
- (b) The executive director of the Washington association of sheriffs and police chiefs or the executive director's designee;
- (c) One sheriff;
- (d) One police chief;
- (e) One person engaged in the business of lawfully selling firearms at retail in this state who holds a federal firearms license under 18 U.S.C. Sec. 923(a); and
- (f) One member of the general public.

(2) The primary purpose of the board is to ensure that the Washington state patrol firearms background check unit established in section 1 of this act is administered efficiently and effectively, and in a manner that honors individual firearms rights while preventing prohibited persons from obtaining firearms.

(3) The board shall initially convene within ninety days of the effective date of this section, and shall meet not less than monthly until such time that the Washington state patrol deems the firearms background check unit is operational. After the Washington state patrol deems the firearms background check unit is operational, the board shall meet quarterly, unless the board has no business to conduct during that quarter.

(4) The board shall elect from among its membership a chairperson and other such officers from among its membership as it deems appropriate.

(5) Members of the board shall serve terms of four years each on a staggered schedule to be established by the first board. For purposes of initiating a staggered schedule of terms, some members of the first board may initially serve two years and some members may initially serve four years.

(6) The board shall:

(a) Provide input and feedback regarding the establishment and operation of the firearms background check unit established in section 1 of this act;

(b) Provide input on the development of the firearms background check unit budget prior to its formal submission to the office of financial management pursuant to RCW 43.88.030;

(c) Be consulted with prior to the proposal of any rule relating to the firearms background check unit and prior to the adoption of any rule relating to the firearms background check unit;

(d) Require reports from the chief of the Washington state patrol on matters pertaining to the firearms background check unit; and

(e) Report to the governor and appropriate committees of the legislature on or before December 31st of each year on the activities of the board and the firearms background check unit for the preceding fiscal year.

(7) Members of the board shall serve without compensation, but shall be reimbursed for travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(8) The Washington state patrol shall provide the staffing and budgetary resources necessary for the board to properly fulfill its duties.

(9) Members serving in their official capacity on the Washington background check advisory board, or either their employer or employers or other entity that selected the members to serve, are immune from a civil action based on an act performed in good faith.

NEW SECTION. Sec. 3. A new section is added to chapter 43.43 RCW to read as follows:

The state firearms background check system account is created in the custody of the state treasurer. All receipts under section 1 of this act must be deposited into the account. Expenditures from the account may be used only for the creation, operation, and maintenance of the automated firearms background check system under section 1 of this act. Only the chief of the Washington state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 4. A new section is added to chapter 9.41 RCW to read as follows:

(1) Beginning on the date that is thirty days after the Washington state patrol issues a notification to dealers that a state firearms background check system is established within the Washington state patrol under section 1 of this act, a dealer shall use the state firearms background check system to conduct background checks for all firearms transfers. A dealer may not sell or transfer a firearm to an individual unless the dealer first contacts the Washington state patrol for a background check to determine the eligibility of the purchaser or transferee to possess a firearm under state and federal law and the requirements and time periods established in RCW 9.41.090 and 9.41.092 have been satisfied. When an applicant applies for the purchase or transfer of a pistol or semiautomatic assault rifle, a dealer shall comply with all requirements of this chapter that apply to the sale or transfer of a pistol or semiautomatic rifle. The purchase or transfer of a firearm that is not a pistol or semiautomatic assault rifle must be processed in the same manner and under the same requirements of this chapter that apply to the sale or transfer of a pistol, except that the provisions of RCW 9.41.129, and the requirement in RCW 9.41.110(9)(b) concerning transmitting application records to the director of licensing, shall not apply to these transactions.

(2) A dealer shall charge a purchaser or transferee a background check fee in an amount determined by the Washington state patrol and remit the proceeds from the fee to the Washington state patrol on a monthly basis. The background check fee does not apply to any background check conducted in connection with a pawnbroker's receipt of a pawned firearm or the redemption of a pawned firearm.

(3) This section does not apply to sales or transfers to licensed dealers or to the sale or transfer of an antique firearm.

Sec. 5. RCW 9.41.114 and 2017 c 261 s 1 are each amended to read as follows:

~~((1) A dealer shall report to the Washington association of sheriffs and police chiefs information on each instance where the dealer denies an application for the purchase or transfer of a firearm, whether under RCW 9.41.090 or 9.41.113, or the requirements of federal law, as the result of a background check~~

~~or completed and submitted firearm purchase or transfer application that indicates the applicant is ineligible to possess a firearm under state or federal law. The dealer shall report the denied application information to the Washington association of sheriffs and police chiefs within five days of the denial in a format as prescribed by the Washington association of sheriffs and police chiefs. The reported information must include the identifying information of the applicant, the date of the application and denial of the application, and other information or documents as prescribed by the Washington association of sheriffs and police chiefs. In any case where the purchase or transfer of a firearm is initially denied by the dealer as the result of a background check that indicates the applicant is ineligible to possess a firearm, but the purchase or transfer is subsequently approved, the dealer shall report the subsequent approval to the Washington association of sheriffs and police chiefs within one day of the approval.~~

(2)) Upon denying an application for the purchase or transfer of a firearm as a result of a background check or completed and submitted firearm purchase or transfer application that indicates the applicant is ineligible to possess a firearm under state or federal law, the dealer shall:

((a)) (1) Provide the applicant with a copy of a notice form generated and distributed by the Washington state patrol under RCW 43.43.823((5)) (6), informing denied applicants of their right to appeal the denial; and

((b)) (2) Retain the original records of the attempted purchase or transfer of a firearm for a period not less than six years.

Sec. 6. RCW 43.43.823 and 2018 c 22 s 11 are each amended to read as follows:

(1) ~~(Upon receipt of the information from the Washington association of sheriffs and police chiefs pursuant to RCW 36.28A.400, the)~~ The Washington state patrol shall report each instance where an application for the purchase or transfer of a firearm is denied as the result of a background check that indicates the applicant is ineligible to possess a firearm to the local law enforcement agency in the jurisdiction where the attempted purchase or transfer took place. The reported information must include the identifying information of the applicant, the date of the application and denial of the application, the basis for the denial of the application, and other information deemed appropriate by the Washington state patrol.

(2) The Washington state patrol must incorporate the information concerning any person whose application for the purchase or transfer of a firearm is denied as the result of a background check into its electronic database accessible to law enforcement agencies and officers, including federally recognized Indian tribes, that have a connection to the Washington state patrol electronic database.

((2)) (3) Upon ~~(receipt of documentation that a person has appealed)~~ appeal of a background check denial, the Washington state patrol shall immediately remove the record of the person ~~(initially reported pursuant to RCW 36.28A.400)~~ from its electronic database accessible to law enforcement agencies and officers ~~(The Washington state patrol must)~~ and keep a separate record of the person's information ~~(for a period of one year or)~~ until such time as the appeal has been resolved. ~~(Every twelve months, the Washington state patrol shall notify the person that the person must provide documentation that~~

~~his or her appeal is still pending or the record of)~~ If the appeal is denied, the Washington state patrol shall put the person's background check denial ((will be put)) information back in its electronic database accessible to law enforcement agencies and officers. ((At any time, upon receipt of documentation that a person's appeal has been granted, the Washington state patrol shall remove any record of the person's denied firearms purchase or transfer application from its electronic database accessible to law enforcement agencies and officers.

~~(3))~~ (4) Upon receipt of satisfactory proof that a person ((who was reported to the Washington state patrol pursuant to RCW 36.28A.400)) is no longer ineligible to possess a firearm under state or federal law, the Washington state patrol must remove any record of the person's denied firearms purchase or transfer application from its electronic database accessible to law enforcement agencies and officers.

~~((4) Upon receipt of notification from the Washington association of sheriffs and police chiefs that a person originally denied the purchase or transfer of a firearm as the result of a background check or completed and submitted firearm purchase or transfer application that indicates the applicant is ineligible to possess a firearm under state or federal law has subsequently been approved for the purchase or transfer, the))~~ (5) In any case where the purchase or transfer of a firearm is initially denied as the result of a background check that indicates the applicant is ineligible to possess a firearm, but the purchase or transfer is subsequently approved, the Washington state patrol must remove any record of the person's denied firearms purchase or transfer application from its electronic database accessible to law enforcement agencies and officers within five business days and report the subsequent approval to the local law enforcement agency that received notification of the original denial.

~~((5))~~ (6) The Washington state patrol shall generate and distribute a notice form to all firearm dealers, to be provided by the dealers to applicants denied the purchase or transfer of a firearm as a result of a background check that indicates the applicant is ineligible to possess a firearm. The notice form must contain the following statements:

State law requires that ~~((1))~~ the Washington state patrol transmit the following information to the ~~((Washington association of sheriffs and police chiefs))~~ local law enforcement agency as a result of your firearm purchase or transfer denial within five days of the denial:

- (a) Identifying information of the applicant;
- (b) The date of the application and denial of the application;
- (c) The basis for the denial; and
- ~~((prescribed))~~ (d) Other information as ((prescribed)) determined by the Washington ((association of sheriffs and police chiefs)) state patrol.

If you believe this denial is in error, and you do not exercise your right to appeal, you may be subject to criminal investigation by the Washington state patrol and/or a local law enforcement agency. The notice form shall also contain information directing the applicant to a web site describing the process of appealing a ~~((national instant criminal))~~ background check system denial ~~((through the federal bureau of investigation))~~

and refer the applicant to (~~local law enforcement~~) the Washington state patrol for information on a denial based on a state background check. The notice form shall also contain a phone number for a contact at the Washington state patrol to direct the person to resources regarding an individual's right to appeal a background check denial.

~~((6))~~ (7) The Washington state patrol shall provide to the Washington association of sheriffs and police chiefs any information necessary for the administration of the grant program in RCW 36.28A.420, providing notice to a protected person pursuant to RCW 36.28A.410, or preparation of the report required under RCW 36.28A.405.

(8) The Washington state patrol may adopt rules as are necessary to carry out the purposes of this section.

Sec. 7. RCW 36.28A.405 and 2017 c 261 s 4 are each amended to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the Washington association of sheriffs and police chiefs shall prepare an annual report on the number of denied firearms sales or transfers reported pursuant to chapter 261, Laws of 2017 and RCW 43.43.823. The report shall indicate the number of cases in which a person was denied a firearms sale or transfer, the number of cases where the denied sale or transfer was investigated for potential criminal prosecution, and the number of cases where an arrest was made, the case was referred for prosecution, and a conviction was obtained. The Washington (~~state patrol~~) association of sheriffs and police chiefs shall submit the report to the appropriate committees of the legislature on or before December 31st of each year.

Sec. 8. RCW 36.28A.420 and 2017 c 261 s 6 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the Washington association of sheriffs and police chiefs shall establish a grant program for local law enforcement agencies to conduct criminal investigations regarding persons who illegally attempted to purchase or transfer a firearm within their jurisdiction.

(2) Each grant applicant must be required to submit reports to the Washington association of sheriffs and police chiefs that indicate the number of cases in which a person was denied a firearms sale or transfer, the number of cases where the denied sale or transfer was investigated for potential criminal prosecution, and the number of cases where an arrest was made, the case was referred for prosecution, and a conviction was obtained.

(3) Information and records prepared, owned, used, or retained by the Washington association of sheriffs and police chiefs pursuant to chapter 261, Laws of 2017 and RCW 43.43.823 are exempt from public inspection and copying under chapter 42.56 RCW.

NEW SECTION. Sec. 9. RCW 36.28A.400 (Denied firearm transaction reporting system—Purge of denial records upon subsequent approval—Public disclosure exemption—Destruction of information) and 2017 c 261 s 2 are each repealed.

NEW SECTION. Sec. 10. Sections 5 through 9 of this act take effect on the date that is thirty days after the Washington state patrol issues a notification to

dealers that a state firearms background check system is established under section 1 of this act. The Washington state patrol shall provide written notice of the effective date of sections 5 through 9 of this act to the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the Washington state patrol.

Passed by the House February 13, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 29

[Substitute House Bill 2473]

DOMESTIC VIOLENCE--VARIOUS PROVISIONS

AN ACT Relating to domestic violence; amending RCW 7.77.060, 7.77.080, 9.41.340, 9.41.345, 9A.36.041, 10.14.055, 10.22.010, 10.66.010, 10.95.020, 26.09.015, 41.04.655, 48.18.550, 70.83C.010, and 74.34.145; reenacting and amending RCW 9.41.010, 9.41.040, 10.31.100, and 9.96.060; prescribing penalties; and declaring an emergency.

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

Sec. 1. RCW 7.77.060 and 2013 c 119 s 7 are each amended to read as follows:

During a collaborative law process, a tribunal may issue emergency orders to protect the health, safety, welfare, or interest of a party or of a family or household member or intimate partner, as defined in RCW 26.50.010.

Sec. 2. RCW 7.77.080 and 2013 c 119 s 9 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, a collaborative lawyer is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter.

(2) Except as otherwise provided in subsection (3) of this section and RCW 7.77.090, a lawyer in a law firm with which the collaborative lawyer is associated is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter if the collaborative lawyer is disqualified from doing so under subsection (1) of this section.

(3) A collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer is associated may represent a party:

(a) To ask a tribunal to approve an agreement resulting from the collaborative law process; or

(b) To seek or defend an emergency order to protect the health, safety, welfare, or interest of a party, or family or household member or intimate partner, as defined in RCW 26.50.010, if a successor lawyer is not immediately available to represent that person.

(4) If subsection (3)(b) of this section applies, a collaborative lawyer, or lawyer in a law firm with which the collaborative lawyer is associated, may represent a party or family or household member or intimate partner only until the person is represented by a successor lawyer or reasonable measures are taken to protect the health, safety, welfare, or interest of the person.

Sec. 3. RCW 9.41.010 and 2019 c 243 s 1 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) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(2) "Barrel length" means the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(3) "Bump-fire stock" means a butt stock designed to be attached to a semiautomatic firearm with the effect of increasing the rate of fire achievable with the semiautomatic firearm to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate reciprocating action that facilitates repeated activation of the trigger.

(4) "Crime of violence" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, residential burglary, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1996, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under (a) or (b) of this subsection.

(5) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

(6) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(7) "Family or household member" (~~means "family" or "household member" as used~~) has the same meaning as in RCW ((10.99.020)) 26.50.010.

(8) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

(9) "Felony firearm offender" means a person who has previously been convicted or found not guilty by reason of insanity in this state of any felony firearm offense. A person is not a felony firearm offender under this chapter if any and all qualifying offenses have been the subject of an expungement, pardon, annulment, certificate, or rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(10) "Felony firearm offense" means:

- (a) Any felony offense that is a violation of this chapter;
- (b) A violation of RCW 9A.36.045;
- (c) A violation of RCW 9A.56.300;
- (d) A violation of RCW 9A.56.310;
- (e) Any felony offense if the offender was armed with a firearm in the commission of the offense.

(11) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

(12) "Gun" has the same meaning as firearm.

(13) "Intimate partner" has the same meaning as provided in RCW 26.50.010.

(14) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

~~((14))~~ (15) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

~~((15))~~ (16) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

~~((16))~~ (17) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

~~((17))~~ (18) "Loaded" means:

- (a) There is a cartridge in the chamber of the firearm;
 - (b) Cartridges are in a clip that is locked in place in the firearm;
 - (c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver;
 - (d) There is a cartridge in the tube or magazine that is inserted in the action;
- or
- (e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.

~~((18))~~ (19) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or

supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

~~((19))~~ (20) "Manufacture" means, with respect to a firearm, the fabrication or construction of a firearm.

~~((20))~~ (21) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

~~((21))~~ (22) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

~~((22))~~ (23) "Pistol" means any firearm with a barrel less than sixteen inches in length, or is designed to be held and fired by the use of a single hand.

~~((23))~~ (24) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

~~((24))~~ (25) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

~~((25))~~ (26) "Secure gun storage" means:

(a) A locked box, gun safe, or other secure locked storage space that is designed to prevent unauthorized use or discharge of a firearm; and

(b) The act of keeping an unloaded firearm stored by such means.

~~((26))~~ (27) "Semiautomatic assault rifle" means any rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

"Semiautomatic assault rifle" does not include antique firearms, any firearm that has been made permanently inoperable, or any firearm that is manually operated by bolt, pump, lever, or slide action.

~~((27))~~ (28) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least ten years;

(c) Child molestation in the second degree;

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

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

(k) 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;

(l) 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;

(m) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(o) Any felony offense in effect at any time prior to June 6, 1996, that is comparable to a serious offense, 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 serious offense; or

(p) Any felony conviction under RCW 9.41.115.

~~((28))~~ (29) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

~~((29))~~ (30) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

~~((30))~~ (31) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

~~((31))~~ (32) "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans. "Transfer" does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of such a firearm by, any of that entity's employees or agents, defined to include volunteers participating in an honor guard, for lawful purposes in the ordinary course of business.

~~((32))~~ (33) "Undetectable firearm" means any firearm that is not as detectable as 3.7 ounces of 17-4 PH stainless steel by walk-through metal detectors or magnetometers commonly used at airports or any firearm where the barrel, the slide or cylinder, or the frame or receiver of the firearm would not generate an image that accurately depicts the shape of the part when examined by the types of X-ray machines commonly used at airports.

~~((33))~~ (34) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

~~((34))~~ (35) "Untraceable firearm" means any firearm manufactured after July 1, 2019, that is not an antique firearm and that cannot be traced by law enforcement by means of a serial number affixed to the firearm by a federally licensed manufacturer or importer.

Sec. 4. RCW 9.41.040 and 2019 c 248 s 2, 2019 c 245 s 3, and 2019 c 46 s 5003 are each reenacted and 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 or by one intimate partner 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 convicted or found not guilty by reason of insanity in this state or elsewhere of harassment when committed by one family or household member against another or by one intimate partner against another, committed on or after June 7, 2018;

(iii) During any period of time that the person is subject to a court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99, 26.09, 26.10, 26.26A, 26.26B, or 26.50 RCW that:

(A) Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

(B) Restrains the person from harassing, stalking, or threatening the person protected under the order or child of the person or protected person, or engaging in other conduct that would place the protected person in reasonable fear of bodily injury to the protected person or child; and

(C)(I) Includes a finding that the person represents a credible threat to the physical safety of the protected person or child and by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the protected person or child that would reasonably be expected to cause bodily injury; or

(II) Includes an order under RCW 9.41.800 requiring the person to surrender all firearms and prohibiting the person from accessing, obtaining, or possessing firearms;

(iv) After having previously been involuntarily committed for mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(v) After dismissal of criminal charges based on incompetency to stand trial under RCW 10.77.088 when the court has made a finding indicating that the defendant has a history of one or more violent acts, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(vi) If the person is under eighteen years of age, except as provided in RCW 9.41.042; and/or

(vii) 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) (a)(iii) of this subsection does not apply to a sexual assault protection order under chapter 7.90 RCW if the order has been modified pursuant to RCW 7.90.170 to remove any restrictions on firearm purchase, transfer, or possession.

(c) Unlawful possession of a firearm in the second degree is a class C felony punishable according to chapter 9A.20 RCW.

(3) Notwithstanding RCW 9.41.047 or any other provisions of law, as used in this chapter, a person has been "convicted", whether in an adult court or adjudicated in a juvenile court, at such time as a plea of guilty has been accepted((;-)) or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including, but not limited to, sentencing or disposition, post-trial or post-fact-finding motions, and appeals. Conviction includes a dismissal entered after a period of probation, suspension, or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state. A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. Where no record of the court's disposition of the charges can be found, there shall be a rebuttable presumption that the person was not convicted of the charge.

(4)(a) Notwithstanding subsection (1) or (2) of this section, a person convicted or found not guilty by reason of insanity of an offense prohibiting the possession of a firearm under this section other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401 and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction or finding of not guilty by reason of insanity. Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) or (2) of this section and has not previously been convicted or found not guilty by reason of insanity of a sex offense prohibiting firearm ownership under subsection (1) or (2) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:

(i) Under RCW 9.41.047; and/or

(ii)(A) If the conviction or finding of not guilty by reason of insanity was for a felony offense, after five or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525; or

(B) If the conviction or finding of not guilty by reason of insanity was for a nonfelony offense, after three or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a

firearm counted as part of the offender score under RCW 9.94A.525 and the individual has completed all conditions of the sentence.

(b) An individual may petition a court of record to have his or her right to possess a firearm restored under (a) of this subsection (~~((4))~~) only at:

(i) The court of record that ordered the petitioner's prohibition on possession of a firearm; or

(ii) The superior court in the county in which the petitioner resides.

(5) In addition to any other penalty provided for by law, if a person under the age of eighteen years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) or (2) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within twenty-four hours and the person's privilege to drive shall be revoked under RCW 46.20.265, unless the offense is the juvenile's first offense in violation of this section and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.52, 69.41, or 69.50 RCW.

(6) Nothing in chapter 129, Laws of 1995 shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense.

Sec. 5. RCW 9.41.340 and 2015 c 130 s 1 are each amended to read as follows:

(1) Each law enforcement agency shall develop a notification protocol that allows a family or household member or intimate partner to use an incident or case number to request to be notified when a law enforcement agency returns a privately owned firearm to the individual from whom it was obtained or to an authorized representative of that person.

(a) Notification may be made via telephone, email, text message, or another method that allows notification to be provided without unnecessary delay.

(b) If a law enforcement agency is in possession of more than one privately owned firearm from a single person, notification relating to the return of one firearm shall be considered notification for all privately owned firearms for that person.

~~((c) "Family or household member" has the same meaning as in RCW 26.50.010.))~~

(2) A law enforcement agency shall not provide notification to any party other than a family or household member or intimate partner who has an incident or case number and who has requested to be notified pursuant to this section or another criminal justice agency.

(3) The information provided by a family or household member or intimate partner pursuant to chapter 130, Laws of 2015, including the existence of the request for notification, is not subject to public disclosure pursuant to chapter 42.56 RCW.

(4) An appointed or elected official, public employee, or public agency as defined in RCW 4.24.470, or combination of units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any release of information or the failure to release information related to this section, so long as the release or failure was without gross negligence.

(5) An individual who knowingly makes a request for notification under this section based on false information may be held liable under RCW 9A.76.175.

Sec. 6. RCW 9.41.345 and 2019 c 367 s 5 are each amended to read as follows:

(1) Before a law enforcement agency returns a privately owned firearm, the law enforcement agency must:

(a) Confirm that the individual to whom the firearm will be returned is the individual from whom the firearm was obtained or an authorized representative of that person;

(b) Confirm that the individual to whom the firearm will be returned is eligible to possess a firearm pursuant to RCW 9.41.040;

(c) Ensure that the firearm is not otherwise required to be held in custody or otherwise prohibited from being released; and

(d) Ensure that twenty-four hours have elapsed from the time the firearm was obtained by law enforcement, unless the firearm was seized in connection with a domestic violence call pursuant to RCW 10.99.030, in which case the law enforcement agency must ensure that five business days have elapsed from the time the firearm was obtained.

(2)(a) Once the requirements in subsections (1) and (3) of this section have been met, a law enforcement agency must release a firearm to the individual from whom it was obtained or an authorized representative of that person upon request without unnecessary delay.

(b)(i) If a firearm cannot be returned because it is required to be held in custody or is otherwise prohibited from being released, a law enforcement agency must provide written notice to the individual from whom it was obtained within five business days of the individual requesting return of his or her firearm and specify the reason the firearm must be held in custody.

(ii) Notification may be made via email, text message, mail service, or personal service. For methods other than personal service, service shall be considered complete once the notification is sent.

(3) If a family or household member or intimate partner has requested to be notified pursuant to RCW 9.41.340, a law enforcement agency must:

(a) Provide notice to the family or household member or intimate partner within one business day of verifying that the requirements in subsection (1) of this section have been met; and

(b) Hold the firearm in custody for seventy-two hours from the time notification has been provided.

(4)(a) A law enforcement agency may not return a concealed pistol license that has been surrendered to, or impounded by, the law enforcement agency for

any reason to the licensee until the law enforcement agency determines the licensee is eligible to possess a firearm under state and federal law and meets the other eligibility requirements for a concealed pistol license under RCW 9.41.070.

(b) A law enforcement agency must release a concealed pistol license to the licensee without unnecessary delay, and in no case longer than five business days, after the law enforcement agency determines the requirements of (a) of this subsection have been met.

(5) The provisions of chapter 130, Laws of 2015 and subsection (4) of this section shall not apply to circumstances where a law enforcement officer has momentarily obtained a firearm or concealed pistol license from an individual and would otherwise immediately return the firearm or concealed pistol license to the individual during the same interaction.

Sec. 7. RCW 9A.36.041 and 2017 c 272 s 1 are each amended to read as follows:

(1) A person is guilty of assault in the fourth degree if, under circumstances not amounting to assault in the first, second, or third degree, or custodial assault, he or she assaults another.

(2) Assault in the fourth degree is a gross misdemeanor, except as provided in subsection (3) of this section.

(3)(a) Assault in the fourth degree ~~((where domestic violence was pleaded and proven))~~ occurring after July 23, 2017, and before the effective date of this section, where domestic violence is pleaded and proven, is a class C felony if the person has two or more prior adult convictions within ten years for any of the following offenses ~~((where domestic violence as defined in RCW 9.94A.030 was pleaded and proven))~~ occurring after July 23, 2017, where domestic violence was pleaded and proven:

~~((a))~~ (i) Repetitive domestic violence offense as defined in RCW 9.94A.030;

~~((b))~~ (ii) Crime of harassment as defined by RCW 9A.46.060;

~~((c))~~ (iii) Assault in the third degree;

~~((d))~~ (iv) Assault in the second degree;

~~((e))~~ (v) Assault in the first degree; or

~~((f))~~ An out-of-state comparable offense.

~~((4))~~ (vi) A municipal, tribal, federal, or out-of-state offense comparable to any offense under (a)(i) through (v) of this subsection.

For purposes of this subsection (3)(a) ((of this section)), "family or household members" for purposes of the definition of "domestic violence" means spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, and persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship. "Family or household member" also includes an "intimate partner" as defined in RCW 26.50.010.

(b) Assault in the fourth degree occurring on or after the effective date of this section, where domestic violence against an "intimate partner" as defined in RCW 26.50.010 is pleaded and proven, is a class C felony if the person has two

or more prior adult convictions within ten years for any of the following offenses occurring after July 23, 2017, where domestic violence against an "intimate partner" as defined in RCW 26.50.010 or domestic violence against a "family or household member" as defined in (a) of this subsection was pleaded and proven:

- (i) Repetitive domestic violence offense as defined in RCW 9.94A.030;
- (ii) Crime of harassment as defined by RCW 9A.46.060;
- (iii) Assault in the third degree;
- (iv) Assault in the second degree;
- (v) Assault in the first degree; or
- (vi) A municipal, tribal, federal, or out-of-state offense comparable to any offense under (b)(i) through (v) of this subsection.

Sec. 8. RCW 10.14.055 and 2002 c 117 s 2 are each amended to read as follows:

No fees for filing or service of process may be charged by a public agency to petitioners seeking relief under this chapter from a person who has stalked them as that term is defined in RCW 9A.46.110, or from a person who has engaged in conduct that would constitute a sex offense as defined in RCW ~~((9A.44.130))~~ 9A.44.128, or from a person who is a family or household member or intimate partner as defined in RCW 26.50.010~~((2))~~ who has engaged in conduct that would constitute domestic violence as defined in RCW 26.50.010~~((1))~~.

Sec. 9. RCW 10.22.010 and 2010 c 8 s 1015 are each amended to read as follows:

When a defendant is prosecuted in a criminal action for a misdemeanor, other than a violation of RCW 9A.48.105, for which the person injured by the act constituting the offense has a remedy by a civil action, the offense may be compromised as provided in RCW 10.22.020, except when it was committed:

(1) By or upon an officer while in the execution of the duties of his or her office;

(2) Riotously;

(3) With an intent to commit a felony; or

(4) By one family or household member against another or by one intimate partner against another as defined in RCW ~~((10.99.020))~~ 26.50.010 and was a crime of domestic violence as defined in RCW 10.99.020.

Sec. 10. RCW 10.31.100 and 2019 c 263 s 911, 2019 c 246 s 6, 2019 c 46 s 5013, and 2019 c 18 s 1 are each reenacted and amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of an officer, except as provided in subsections (1) through (11) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of

twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

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

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 10.99, 26.09, 26.10, 26.26A, 26.26B, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of, or entering, a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person;

(b) An extreme risk protection order has been issued against the person under RCW 7.94.040, the person has knowledge of the order, and the person has violated the terms of the order prohibiting the person from having in his or her custody or control, purchasing, possessing, accessing, or receiving a firearm or concealed pistol license;

(c) A foreign protection order, as defined in RCW 26.52.010, or a Canadian domestic violence protection order, as defined in RCW 26.55.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order or the Canadian domestic violence protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order or the Canadian domestic violence protection order specifically indicates that a violation will be a crime; or

(d) The person is eighteen years or older and within the preceding four hours has assaulted a family or household member or intimate partner as defined in RCW (~~(10.99.020)~~ 26.50.010) and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members or intimate partners have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (A) The intent to protect victims of domestic violence under RCW 10.99.010; (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

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

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

(b) RCW 46.52.020, relating to duty in case of injury to₂ or death of₂ a person or damage to an attended vehicle;

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

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

(e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;

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

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

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed₂ in connection with the accident₂ a violation of any traffic law or regulation.

(5)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

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

(7) An officer may act upon the request of a law enforcement officer₂ in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

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

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

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

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

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

(12) A law enforcement officer having probable cause to believe that a person has committed a violation under RCW 77.15.160(5) may issue a citation for an infraction to the person in connection with the violation.

(13) A law enforcement officer having probable cause to believe that a person has committed a criminal violation under RCW 77.15.809 or 77.15.811 may arrest the person in connection with the violation.

(14) Except as specifically provided in subsections (2), (3), (4), and (7) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(15) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or (9) of this section if the police officer acts in good faith and without malice.

(16)(a) Except as provided in (b) of this subsection, a police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer: (i) Has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years; or (ii) has knowledge, based on a review of the information available to the officer at the time of arrest, that the person is charged with or is awaiting arraignment for an offense that would qualify as a prior offense as defined in RCW 46.61.5055 if it were a conviction.

(b) A police officer is not required to keep in custody a person under (a) of this subsection if the person requires immediate medical attention and is admitted to a hospital.

Sec. 11. RCW 10.66.010 and 1989 c 271 s 214 are each amended to read as follows:

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

(1) "Applicant" means any person who owns, occupies, or has a substantial interest in property, or who is a neighbor to property which is adversely affected by drug trafficking, including:

(a) A "family or household member" or "intimate partner" as defined by RCW ((10.99.020(1))) 26.50.010, who has a possessory interest in a residence as an owner or tenant, at least as great as a known drug trafficker's interest;

(b) An owner or lessor;

(c) An owner, tenant, or resident who lives or works in a designated PADT area; or

(d) A city or prosecuting attorney for any jurisdiction in this state where drug trafficking is occurring.

(2) "Drug" or "drugs" means a controlled substance as defined in chapter 69.50 RCW or an "imitation controlled substance" as defined in RCW 69.52.020.

(3) "Known drug trafficker" means any person who has been convicted of a drug offense in this state, another state, or federal court who subsequently has been arrested for a drug offense in this state. For purposes of this definition, "drug offense" means a felony violation of chapter 69.50 or 69.52 RCW or equivalent law in another jurisdiction that involves the manufacture, distribution, or possession with intent to manufacture or distribute(±) of a controlled substance or imitation controlled substance.

(4) "Off-limits orders" means an order issued by a superior or district court in the state of Washington that enjoins known drug traffickers from entering or remaining in a designated PADT area.

(5) "Protected against drug trafficking area" or "PADT area" means any specifically described area, public or private, contained in an off-limits order. The perimeters of a PADT area shall be defined using street names and numbers and shall include all real property contained therein, where drug sales, possession of drugs, pedestrian or vehicular traffic attendant to drug activity, or other activity associated with drug offenses confirms a pattern associated with drug trafficking. The area may include the full width of streets, alleys and sidewalks on the perimeter, common areas, planting strips, or parks and parking areas within the area described using the streets as boundaries.

Sec. 12. RCW 10.95.020 and 2003 c 53 s 96 are each amended to read as follows:

A person is guilty of aggravated first degree murder, a class A felony, if he or she commits first degree murder as defined by RCW 9A.32.030(1)(a), as now or hereafter amended, and one or more of the following aggravating circumstances exist:

(1) The victim was a law enforcement officer, corrections officer, or firefighter who was performing his or her official duties at the time of the act resulting in death and the victim was known or reasonably should have been known by the person to be such at the time of the killing;

(2) At the time of the act resulting in the death, the person was serving a term of imprisonment, had escaped, or was on authorized or unauthorized leave in or from a state facility or program for the incarceration or treatment of persons adjudicated guilty of crimes;

(3) At the time of the act resulting in death, the person was in custody in a county or county-city jail as a consequence of having been adjudicated guilty of a felony;

(4) The person committed the murder pursuant to an agreement that he or she would receive money or any other thing of value for committing the murder;

(5) The person solicited another person to commit the murder and had paid or had agreed to pay money or any other thing of value for committing the murder;

(6) The person committed the murder to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group;

(7) The murder was committed during the course of or as a result of a shooting where the discharge of the firearm, as defined in RCW 9.41.010, is either from a motor vehicle or from the immediate area of a motor vehicle that was used to transport the shooter or the firearm, or both, to the scene of the discharge;

(8) The victim was:

(a) A judge; juror or former juror; prospective, current, or former witness in an adjudicative proceeding; prosecuting attorney; deputy prosecuting attorney; defense attorney; a member of the indeterminate sentence review board; or a probation or parole officer; and

(b) The murder was related to the exercise of official duties performed or to be performed by the victim;

(9) The person committed the murder to conceal the commission of a crime or to protect or conceal the identity of any person committing a crime, including, but specifically not limited to, any attempt to avoid prosecution as a persistent offender as defined in RCW 9.94A.030;

(10) There was more than one victim and the murders were part of a common scheme or plan or the result of a single act of the person;

(11) The murder was committed in the course of, in furtherance of, or in immediate flight from one of the following crimes:

(a) Robbery in the first or second degree;

(b) Rape in the first or second degree;

(c) Burglary in the first or second degree or residential burglary;

(d) Kidnapping in the first degree; or

(e) Arson in the first degree;

(12) The victim was regularly employed or self-employed as a newsreporter and the murder was committed to obstruct or hinder the investigative, research, or reporting activities of the victim;

(13) At the time the person committed the murder, there existed a court order, issued in this or any other state, which prohibited the person from either contacting the victim, molesting the victim, or disturbing the peace of the victim, and the person had knowledge of the existence of that order;

(14) At the time the person committed the murder, the person and the victim were "family or household members" or "intimate partners" as ~~((that term is))~~ defined in RCW ~~((40.99.020(1)))~~ 26.50.010, and the person had previously engaged in a pattern or practice of three or more of the following crimes committed upon the victim within a five-year period, regardless of whether a conviction resulted:

(a) Harassment as defined in RCW 9A.46.020; or

(b) Any criminal assault.

Sec. 13. RCW 26.09.015 and 2008 c 6 s 1044 are each amended to read as follows:

(1) In any proceeding under this chapter, the matter may be set for mediation of the contested issues before, or concurrent with, the setting of the matter for hearing. The purpose of the mediation proceeding shall be to reduce acrimony which may exist between the parties and to develop an agreement assuring the child's close and continuing contact with both parents after the marriage or the domestic partnership is dissolved. The mediator shall use his or her best efforts to effect a settlement of the dispute.

(2)(a) Each superior court may make available a mediator. The court shall use the most cost-effective mediation services that are readily available unless there is good cause to access alternative providers. The mediator may be a member of the professional staff of a family court or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court is not required to institute a family court.

(b) In any proceeding involving issues relating to residential time or other matters governed by a parenting plan, the matter may be set for mediation of the contested issues before, or concurrent with, the setting of the matter for hearing. Counties may, and to the extent state funding is provided therefor counties shall, provide both predecree and postdecree mediation at reduced or waived fee to the parties within one year of the filing of the dissolution petition.

(3)(a) Mediation proceedings under this chapter shall be governed in all respects by chapter 7.07 RCW, except as follows:

(i) Mediation communications in postdecree mediations mandated by a parenting plan are admissible in subsequent proceedings for the limited purpose of proving:

(A) Abuse, neglect, abandonment, exploitation, or unlawful harassment, as defined in RCW 9A.46.020(1), of a child;

(B) Abuse or unlawful harassment as defined in RCW 9A.46.020(1), of a family or household member or intimate partner, each as defined in RCW 26.50.010((~~2~~)); or

(C) That a parent used or frustrated the dispute resolution process without good reason for purposes of RCW 26.09.184(4)(d).

(ii) If a postdecree mediation-arbitration proceeding is required pursuant to a parenting plan and the same person acts as both mediator and arbitrator, mediation communications in the mediation phase of such a proceeding may be admitted during the arbitration phase, and shall be admissible in the judicial review of such a proceeding under RCW 26.09.184(4)(e) to the extent necessary for such review to be effective.

(b) None of the exceptions under (a)(i) and (ii) of this subsection shall subject a mediator to compulsory process to testify except by court order for good cause shown, taking into consideration the need for the mediator's testimony and the interest in the mediator maintaining an appearance of impartiality. If a mediation communication is not privileged under (a)(i) of this subsection or that portion of (a)(ii) of this subsection pertaining to judicial review, only the portion of the communication necessary for the application of the exception may be admitted, and such admission of evidence shall not render any other mediation communication discoverable or admissible except as may be provided in chapter 7.07 RCW.

(4) The mediator shall assess the needs and interests of the child or children involved in the controversy and may interview the child or children if the mediator deems such interview appropriate or necessary.

(5) Any agreement reached by the parties as a result of mediation shall be reported to the court and to counsel for the parties by the mediator on the day set for mediation or any time thereafter designated by the court.

Sec. 14. RCW 41.04.655 and 2018 c 39 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.04.650 through 41.04.670, 28A.400.380, and section 7, chapter 93, Laws of 1989.

(1) "Domestic violence" means any of the following acts committed by one family or household member against another or by one intimate partner against another, as those terms are defined in RCW 26.50.010:

(a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault ~~((between family or household members as defined in RCW 26.50.010));~~

(b) ~~((sexual)) Sexual~~ assault ~~((of one family or household member by another family or household member));~~ or

(c) ~~((stalking)) Stalking~~ as defined in RCW 9A.46.110 ~~((of one family or household member by another family or household member)).~~

(2) "Employee" means any employee of the state, including employees of school districts and educational service districts, who are entitled to accrue sick leave or annual leave and for whom accurate leave records are maintained.

(3) "Parental leave" means leave to bond and care for a newborn child after birth or to bond and care for a child after placement for adoption or foster care, for a period of up to sixteen weeks after the birth or placement.

(4) "Pregnancy disability" means a pregnancy-related medical condition or miscarriage.

(5) "Program" means the leave sharing program established in RCW 41.04.660.

(6) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty including state-ordered active duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(7) "Sexual assault" has the same meaning as set forth in RCW 70.125.030.

(8) "Stalking" has the same meaning as set forth in RCW 9A.46.110.

(9) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts.

(10) "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard, and any other category of persons designated by the president of the United States in time of war or national emergency.

(11) "Victim" means a person against whom domestic violence, sexual assault, or stalking has been committed as defined in this section.

Sec. 15. RCW 48.18.550 and 1998 c 301 s 1 are each amended to read as follows:

(1) No insurer shall deny or refuse to accept an application for insurance, refuse to insure, refuse to renew, cancel, restrict, or otherwise terminate a policy of insurance, or charge a different rate for the same coverage ~~((s))~~ on the basis

that the applicant or insured person is, has been, or may be a victim of domestic abuse.

(2) Nothing in this section shall prevent an insurer from taking any of the actions set forth in subsection (1) of this section on the basis of loss history or medical condition or for any other reason not otherwise prohibited by this section, any other law, regulation, or rule.

(3) Any form filed or filed after June 11, 1998, subject to RCW 48.18.120(1) or subject to a rule adopted under RCW 48.18.120(1) may exclude coverage for losses caused by intentional or fraudulent acts of any insured. Such an exclusion, however, shall not apply to deny an insured's otherwise-covered property loss if the property loss is caused by an act of domestic abuse by another insured under the policy, the insured claiming property loss files a police report and cooperates with any law enforcement investigation relating to the act of domestic abuse, and the insured claiming property loss did not cooperate in, or contribute to, the creation of the property loss. Payment by the insurer to an insured may be limited to the person's insurable interest in the property less payments made to a mortgagee or other party with a legal secured interest in the property. An insurer making payment to an insured under this section has all rights of subrogation to recover against the perpetrator of the act that caused the loss.

(4) Nothing in this section prohibits an insurer from investigating a claim and complying with chapter 48.30A RCW.

(5) ~~((As used in this section, "domestic"))~~ For the purposes of this section, the following definitions apply:

(a) "Domestic abuse" means: ~~((a))~~ (i) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members or intimate partners; ~~((b))~~ (ii) sexual assault of one family or household member by another or of one intimate partner by another; ~~((c))~~ (iii) stalking as defined in RCW 9A.46.110 of one family or household member by another ~~(family or household member)~~ or of one intimate partner by another; or ~~((d))~~ (iv) intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another family or household member or of another intimate partner.

(b) "Family or household member" has the same meaning as in RCW 26.50.010.

(c) "Intimate partner" has the same meaning as in RCW 26.50.010.

Sec. 16. RCW 70.83C.010 and 1993 c 422 s 4 are each amended to read as follows:

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

(1) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of alcohol use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(2) "Approved treatment program" means a discrete program of chemical dependency treatment provided by a treatment program certified by the department of social and health services as meeting standards adopted under this chapter.

(3) "Assessment" means an interview with an individual to determine if he or she is chemically dependent and in need of referral to an approved treatment program.

(4) "Chemically dependent individual" means someone suffering from alcoholism or drug addiction, or dependence on alcohol or one or more other psychoactive chemicals.

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

(6) "Domestic violence" is a categorization of offenses, as defined in RCW 10.99.020(~~(-committed by one family or household member against another)~~).

(7) "Domestic violence program" means a shelter or other program which provides services to victims of domestic violence.

(8) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruptions of social or economic functioning.

(9) (~~("Family or household members" means a family or household member as defined in RCW 10.99.020.~~

~~(10))~~ (10) "Pretreatment" means the period of time prior to an individual's enrollment in alcohol or drug treatment.

~~((11))~~ (11) "Pretreatment services" means activities taking place prior to treatment that include identification of individuals using alcohol or drugs, education, assessment of their use, evaluation of need for treatment, referral to an approved treatment program, and advocacy on a client's behalf with social service agencies or others to ensure and coordinate a client's entry into treatment.

~~((12))~~ (12) "Primary prevention" means providing information about the effects of alcohol or drug use to individuals so they will avoid using these substances.

~~((13))~~ (13) "Secondary prevention" means identifying and obtaining an assessment on individuals using alcohol or other drugs for referral to treatment when indicated.

~~((14))~~ (14) "Secretary" means the secretary of the department of social and health services.

~~((15))~~ (15) "Treatment" means the broad range of emergency detoxification, residential, and outpatient services and care, including diagnostic evaluation, chemical dependency education and counseling, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, that may be extended to chemically dependent individuals and their families.

~~((16))~~ (16) "Treatment program" means an organization, institution, or corporation, public or private, engaged in the care, treatment, or rehabilitation of chemically dependent individuals.

Sec. 17. RCW 74.34.145 and 2007 c 312 s 7 are each amended to read as follows:

(1) An order for protection of a vulnerable adult issued under this chapter, which restrains the respondent or another person from committing acts of abuse, prohibits contact with the vulnerable adult, excludes the person from any specified location, or prohibits the person from coming within a specified distance from a location, shall prominently bear on the front page of the order

the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(2) Whenever an order for protection of a vulnerable adult is issued under this chapter((§)) and the respondent or person to be restrained knows of the order, a violation of a provision restraining the person from committing acts of abuse, prohibiting contact with the vulnerable adult, excluding the person from any specified location, or prohibiting the person from coming within a specified distance of a location((§)) shall be punishable under RCW 26.50.110, regardless of whether the person is a family or household member or intimate partner as defined in RCW 26.50.010.

Sec. 18. RCW 9.96.060 and 2019 c 400 s 1, 2019 c 331 s 4, and 2019 c 46 s 5010 are each reenacted and amended to read as follows:

(1) When vacating a conviction under this section, the court effectuates the vacation by: (a)(i) Permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or (ii) if the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of guilty; and (b) the court dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

(2) Every person convicted of a misdemeanor or gross misdemeanor offense may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. If the court finds the applicant meets the requirements of this subsection, the court may in its discretion vacate the record of conviction. Except as provided in subsections (3), (4), and (5) of this section, an applicant may not have the record of conviction for a misdemeanor or gross misdemeanor offense vacated if any one of the following is present:

(a) The applicant has not completed all of the terms of the sentence for the offense;

(b) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal or tribal court, at the time of application;

(c) The offense was a violent offense as defined in RCW 9.94A.030 or an attempt to commit a violent offense;

(d) The offense was a violation of RCW 46.61.502 (driving while under the influence), 46.61.504 (actual physical control while under the influence), 9.91.020 (operating a railroad, etc. while intoxicated), or the offense is considered a "prior offense" under RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug violation within ten years of the date of arrest for the prior offense or less than ten years has elapsed since the date of the arrest for the prior offense;

(e) The offense was any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44 RCW (sex offenses), except for failure to register as a sex offender under RCW 9A.44.132;

(f) The applicant was convicted of a misdemeanor or gross misdemeanor offense as defined in RCW 10.99.020, or the court determines after a review of the court file that the offense was committed by one family ((~~member~~)) or household member against another or by one intimate partner against another, or the court, after considering the damage to person or property that resulted in the

conviction, any prior convictions for crimes defined in RCW 10.99.020, or for comparable offenses in another state or in federal court, and the totality of the records under review by the court regarding the conviction being considered for vacation, determines that the offense involved domestic violence, and any one of the following factors exist:

(i) The applicant has not provided written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought, or has not provided that notification to the court;

(ii) The applicant has two or more domestic violence convictions stemming from different incidents. For purposes of this subsection, however, if the current application is for more than one conviction that arose out of a single incident, none of those convictions counts as a previous conviction;

(iii) The applicant has signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense, and a criminal history check reveals that the applicant has had such a conviction; or

(iv) Less than five years have elapsed since the person completed the terms of the original conditions of the sentence, including any financial obligations and successful completion of any treatment ordered as a condition of sentencing;

(g) For any offense other than those described in (f) of this subsection, less than three years have passed since the person completed the terms of the sentence, including any financial obligations;

(h) The offender has been convicted of a new crime in this state, another state, or federal or tribal court in the three years prior to the vacation application; or

(i) The applicant is currently restrained by a domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order which restrains one party from contacting the other party or was previously restrained by such an order and was found to have committed one or more violations of the order in the five years prior to the vacation application.

(3) Subject to RCW 9.96.070, every person convicted of prostitution under RCW 9A.88.030 who committed the offense as a result of being a victim of trafficking, RCW 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070, promoting commercial sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq. may apply to the sentencing court for vacation of the applicant's record of conviction for the prostitution offense. An applicant may not have the record of conviction for prostitution vacated if any one of the following is present:

(a) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court, for any crime other than prostitution; or

(b) The offender has been convicted of another crime, except prostitution, in this state, another state, or federal court since the date of conviction. The limitation in this subsection (3)(b) does not apply to convictions where the offender proves by a preponderance of the evidence that he or she committed the crime as a result of being a victim of trafficking, RCW 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070, promoting commercial sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons under the trafficking

victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq., according to the requirements provided in RCW 9.96.070 for each respective conviction.

(4) Every person convicted prior to January 1, 1975, of violating any statute or rule regarding the regulation of fishing activities, including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070, 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240 who claimed to be exercising a treaty Indian fishing right, may apply to the sentencing court for vacation of the applicant's record of the misdemeanor, gross misdemeanor, or felony conviction for the offense. If the person is deceased, a member of the person's family or an official representative of the tribe of which the person was a member may apply to the court on behalf of the deceased person. Notwithstanding the requirements of RCW 9.94A.640, the court shall vacate the record of conviction if:

(a) The applicant is a member of a tribe that may exercise treaty Indian fishing rights at the location where the offense occurred; and

(b) The state has been enjoined from taking enforcement action of the statute or rule to the extent that it interferes with a treaty Indian fishing right as determined under *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and any posttrial orders of those courts, or any other state supreme court or federal court decision.

(5) Every person convicted of a misdemeanor marijuana offense, who was twenty-one years of age or older at the time of the offense, may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. A misdemeanor marijuana offense includes, but is not limited to: Any offense under RCW 69.50.4014, from July 1, 2004, onward, and its predecessor statutes, including RCW 69.50.401(e), from March 21, 1979, to July 1, 2004, and RCW 69.50.401(d), from May 21, 1971, to March 21, 1979, and any offense under an equivalent municipal ordinance. If an applicant qualifies under this subsection, the court shall vacate the record of conviction.

(6)(a) Except as provided in (c) of this subsection, once the court vacates a record of conviction under this section, the person shall be released from all penalties and disabilities resulting from the offense and the fact that the person has been convicted of the offense shall not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated under this section may state that he or she has never been convicted of that crime. However, nothing in this section affects the requirements for restoring a right to possess a firearm under RCW 9.41.040. Except as provided in (b) of this subsection, nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

(b) When a court vacates a record of domestic violence as defined in RCW 10.99.020 under this section, the state may not use the vacated conviction in a later criminal prosecution unless the conviction was for: (i) Violating the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going on to the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220,

26.26B.050, 26.44.063, 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145); or (ii) stalking (RCW 9A.46.110). A vacated conviction under this section is not considered a conviction of such an offense for the purposes of 27 C.F.R. 478.11.

(c) A conviction vacated on or after July 28, 2019, qualifies as a prior conviction for the purpose of charging a present recidivist offense as defined in RCW 9.94A.030 occurring on or after July 28, 2019.

(7) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local police agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local police agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies.

NEW SECTION. Sec. 19. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 12, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 30

[Substitute House Bill 2476]

DEBT BUYERS

AN ACT Relating to debt buyers; amending RCW 19.16.100, 19.16.260, 19.16.440, and 19.16.450; and creating a new section.

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

Sec. 1. RCW 19.16.100 and 2019 c 227 s 3 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

- (1) "Board" means the Washington state collection agency board.
- (2) "Claim" means any obligation for the payment of money or thing of value arising out of any agreement or contract, express or implied.
- (3) "Client" or "customer" means any person authorizing or employing a collection agency to collect a claim.
- (4) "Collection agency" means and includes:
 - (a) Any person directly or indirectly engaged in soliciting claims for collection, or collecting or attempting to collect claims owed or due or asserted to be owed or due another person;
 - (b) Any person who directly or indirectly furnishes or attempts to furnish, sells, or offers to sell forms represented to be a collection system or scheme

intended or calculated to be used to collect claims even though the forms direct the debtor to make payment to the creditor and even though the forms may be or are actually used by the creditor himself or herself in his or her own name;

(c) Any person who in attempting to collect or in collecting his or her own claim uses a fictitious name or any name other than his or her own which would indicate to the debtor that a third person is collecting or attempting to collect such claim;

~~(d) ((Any person or entity that is engaged in the business of purchasing delinquent or charged off claims for collection purposes, whether it collects the claims itself or hires a third party for collection or an attorney for litigation in order to collect such claims;))~~ A debt buyer as defined in this section;

(e) Any person or entity attempting to enforce a lien under chapter 60.44 RCW, other than the person or entity originally entitled to the lien.

(5) "Collection agency" does not mean and does not include:

(a) Any individual engaged in soliciting claims for collection, or collecting or attempting to collect claims on behalf of a licensee under this chapter, if said individual is an employee of the licensee;

(b) Any individual collecting or attempting to collect claims for not more than one employer, if all the collection efforts are carried on in the name of the employer and if the individual is an employee of the employer;

(c) Any person whose collection activities are carried on in his, her, or its true name and are confined and are directly related to the operation of a business other than that of a collection agency, such as but not limited to: Trust companies; savings and loan associations; building and loan associations; abstract companies doing an escrow business; real estate brokers; property management companies collecting assessments, charges, or fines on behalf of condominium unit owners associations, associations of apartment owners, or homeowners' associations; public officers acting in their official capacities; persons acting under court order; lawyers; insurance companies; credit unions; loan or finance companies; mortgage banks; and banks;

(d) Any person who on behalf of another person prepares or mails monthly or periodic statements of accounts due if all payments are made to that other person and no other collection efforts are made by the person preparing the statements of account;

(e) An "out-of-state collection agency" as defined in this chapter; or

(f) Any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of the person is not the collection of debts.

(6) "Commercial claim" means any obligation for payment of money or thing of value arising out of any agreement or contract, express or implied, where the transaction which is the subject of the agreement or contract is not primarily for personal, family, or household purposes.

(7) "Debt buyer" means any person or entity that is engaged in the business of purchasing delinquent or charged off claims for collection purposes, whether it collects the claims itself or hires a third party for collection or an attorney for litigation in order to collect such claims.

(8) "Debtor" means any person owing or alleged to owe a claim.

~~((8))~~ (9) "Director" means the director of licensing.

~~((9))~~ (10) "Licensee" means any person licensed under this chapter.

~~((10))~~ (11) "Medical debt" means any obligation for the payment of money arising out of any agreement or contract, express or implied, for the provision of health care services as defined in RCW 48.44.010. In the context of "medical debt," "charity care" has the same meaning as provided in RCW 70.170.020.

~~((11))~~ (12) "Out-of-state collection agency" means a person whose activities within this state are limited to collecting debts from debtors located in this state by means of interstate communications, including telephone, mail, or facsimile transmission, from the person's location in another state on behalf of clients located outside of this state, but does not include any person who is excluded from the definition of the term "debt collector" under the federal fair debt collection practices act (15 U.S.C. Sec. 1692a(6)).

~~((12))~~ (13) "Person" includes individual, firm, partnership, trust, joint venture, association, or corporation.

~~((13))~~ (14) "Statement of account" means a report setting forth only amounts billed, invoices, credits allowed, or aged balance due.

Sec. 2. RCW 19.16.260 and 2013 c 148 s 3 are each amended to read as follows:

(1)(a) No collection agency or out-of-state collection agency may bring or maintain an action in any court of this state involving the collection of its own claim or a claim of any third party without alleging and proving that he, she, or it is duly licensed under this chapter and has satisfied the bonding requirements hereof, if applicable: PROVIDED, That in any case where judgment is to be entered by default, it shall not be necessary for the collection agency or out-of-state collection agency to prove such matters.

(b) A copy of the current collection agency license or out-of-state collection agency license, certified by the director to be a true and correct copy of the original, shall be prima facie evidence of the licensing and bonding of such collection agency or out-of-state collection agency as required by this chapter.

(2) No debt buyer may:

(a) Bring any legal action against a debtor without attaching to the complaint a copy of the contract or other writing evidencing the original debt that contains the signature of the debtor, or:

(i) If a claim is based on a credit card debt for which a signed writing evidencing the original debt does not exist, a copy of the most recent monthly statement recording a purchase transaction, payment, or other extension of credit and, if the claim is based on a breach of contract, a copy of the terms and conditions in place at the time of the most recent monthly statement recording a purchase transaction, payment, or extension of credit must also be attached; or

(ii) If a claim is based on an electronic transaction for which a signed writing evidencing the original debt never existed, a copy of the records created during the transaction evidencing the debtor's agreement to the debt and recording the date and terms of the transaction and information provided by the debtor during the transaction.

(b) Request a default judgment against a debtor in any legal action without providing to the court evidence that satisfies the requirements of rule 803(a)(6) of the rules of evidence and RCW 5.45.020 or is otherwise authorized by law or

rule that establishes the amount and nature of the debt, including the documents required by (a) of this subsection, and:

- (i) The original account number at charge-off;
- (ii) The original creditor at charge-off;
- (iii) The amount due at charge-off or, if the balance has not been charged off, an itemization of the amount claimed to be owed, including the principal, interest, fees, and other charges or reductions from payment made or other credits;
- (iv) An itemization of post charge-off additions, if any;
- (v) The date of the last payment, if applicable, or the date of the last transaction;
- (vi) If the account is not a revolving credit account, the date the debt was incurred; and
- (vii) A copy of the assignment or other writing establishing that the debt buyer is the owner of the debt. If the debt was assigned more than once, each assignment or other writing evidencing transfer of ownership must be attached to establish an unbroken chain of ownership, beginning with the original creditor to the first debt buyer and each subsequent sale.

(c) Bring any legal action against a debtor without providing a disclosure in the complaint, in no smaller than ten point type, stating each of the following:

- (i) That the action is being brought by, or for the benefit of, a person or entity that is engaged in the business of purchasing delinquent or charged off claims for collection purposes;
- (ii) The date the claim or obligation was purchased;
- (iii) The identity of the person or entity from whom or which the claim or obligation was purchased;
- (iv) That the plaintiff may have purchased this claim or obligation for less than the value stated in the complaint;
- (v) If the claim or obligation was at any time sold without any representation or warranty of accuracy, a statement to that effect; and
- (vi) That the action is being commenced within, and is not barred by, an applicable statute of limitations.

Sec. 3. RCW 19.16.440 and 1994 c 195 s 11 are each amended to read as follows:

The operation of a collection agency or out-of-state collection agency without a license as prohibited by RCW 19.16.110 and the commission by a licensee or an employee of a licensee of an act or practice prohibited by RCW 19.16.250 or 19.16.260 are declared to be unfair acts or practices or unfair methods of competition in the conduct of trade or commerce for the purpose of the application of the (~~Consumer Protection Act~~) consumer protection act found in chapter 19.86 RCW.

Sec. 4. RCW 19.16.450 and 1971 ex.s. c 253 s 36 are each amended to read as follows:

If an act or practice in violation of RCW 19.16.250 or 19.16.260 is committed by a licensee or an employee of a licensee in the collection of a claim, neither the licensee, the customer of the licensee, nor any other person who may thereafter legally seek to collect on such claim shall ever be allowed to recover any interest, service charge, attorneys' fees, collection costs, delinquency charge,

or any other fees or charges otherwise legally chargeable to the debtor on such claim: PROVIDED, That any person asserting the claim may nevertheless recover from the debtor the amount of the original claim or obligation.

NEW SECTION. **Sec. 5.** This act applies prospectively only and not retroactively. It applies with respect to delinquent or charged off claims purchased for collection purposes by a debt buyer on or after the effective date of this section.

Passed by the House February 12, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 31

[House Bill 2508]

CITY-OWNED UTILITIES--LOW-VALUE SURPLUS PROPERTY DONATION

AN ACT Relating to simplifying the process for donating low-value surplus property owned by a city-owned utility; and amending RCW 35.94.040.

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

Sec. 1. RCW 35.94.040 and 2018 c 217 s 4 are each amended to read as follows:

(1) Whenever a city shall determine, by resolution of its legislative authority, that any lands, property, or equipment originally acquired for public utility purposes is surplus to the city's needs and is not required for providing continued public utility service and, in the case of personal property or equipment, has an estimated value of greater than fifty thousand dollars, then such legislative authority by resolution and after a public hearing may cause such lands, property, or equipment to be leased, sold, or conveyed. Such resolution shall state the fair market value or the rent or consideration to be paid and such other terms and conditions for such disposition as the legislative authority deems to be in the best public interest.

(2) The provisions of RCW 35.94.020 and 35.94.030 shall not apply to dispositions authorized by this section. The provisions of this section and RCW 35.94.020 and 35.94.030 shall not apply to the disposition of any personal property or equipment originally acquired for public utility purposes that is surplus to the city's needs and is not required for providing continued public utility service and has an estimated value of fifty thousand dollars or less.

(3) This section does not apply to property transferred, leased, or otherwise disposed in accordance with RCW 39.33.015.

Passed by the House February 12, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 32

[Engrossed Second Substitute House Bill 2518]

NATURAL GAS TRANSMISSION AND DISTRIBUTION

AN ACT Relating to the safe and efficient transmission and distribution of natural gas; amending RCW 70.235.020; adding a new section to chapter 80.28 RCW; adding a new section to chapter 81.88 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to encourage a safer and more efficient natural gas transmission and distribution system through investments that address and minimize leaks in the natural gas pipeline system.

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

(1) The commission must initiate a proceeding to provide conditions concerning the interim recovery between rate cases by a gas company of the costs associated with replacing pipeline facilities that are demonstrated to have an elevated risk of failure and the costs associated with measures to expedite the reduction of hazardous leaks and reduce as practicable nonhazardous leaks from the gas company's gas pipelines.

(2) A gas company seeking an interim recovery between rate cases may submit to the commission, as part of a general rate case or a commission-approved interim rate treatment mechanism regarding the replacement of pipeline facilities, a description of equipment and new facilities that aid in the reduction of methane emissions and a list of projects and changes to operational procedures including, but not limited to, venting, blowdowns, and others, to expedite the replacement of pipeline facilities that present an elevated risk of failure and expedite the repairs of hazardous leaks and nonhazardous leaks. Items on the list must be ranked according to risk, severity, complexity, and impact to the environment and public health. A gas company may also include in its filing methods to implement and deploy leak detection technology capable of rapidly identifying leaks. As part of its filing, the gas company must include a cost-effectiveness analysis and propose a cap for annual expenditures recoverable through a cost recovery mechanism to be approved by the commission. The cost-effectiveness analysis must include considerations of risk and impacts to the environment and public health. A gas company may consider a percent of rate base, percent of revenues, total expenditures, or other basis for its proposed cap. As part of the proposal, the gas company must address the expected impact to ratepayers and other factors that may be required by the commission by rule.

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

(a) "Gas pipeline" has the same meaning as defined in RCW 81.88.010.

(b) "Hazardous leak" means a leak that represents an existing or probable hazard to persons or property and requires immediate repair or continuous action until the conditions are no longer hazardous.

(c) "Nonhazardous leak" includes a leak that is:

(i) Recognized as being not hazardous at the time of detection but justifies scheduled repair based on the potential for creating a future hazard; and

(ii) Not hazardous at the time of detection and can reasonably be expected to remain not hazardous.

(4) Nothing in this section may be construed to preempt the process by which a gas company is required to petition relevant state or local authorities when seeking to expand the capacity of the company's gas transmission or distribution lines.

(5) Nothing in this section may be construed to impose requirements or restrictions on or otherwise regulate interstate pipelines.

NEW SECTION. Sec. 3. A new section is added to chapter 81.88 RCW to read as follows:

(1) Beginning March 15, 2021, and on an annual basis thereafter, each gas pipeline company must submit a report to the commission that includes:

(a) The total number of known leaks in pipelines owned by the gas pipeline company as of January 1st of the year the report is submitted;

(b) The total number of hazardous leaks eliminated or repaired during the previous one-year period ending December 31st;

(c) The total number of nonhazardous leaks eliminated or repaired during the previous one-year period ending December 31st;

(d) The total number of leaks scheduled for repair in the next one-year period beginning January 1st of the year the report is submitted. The data provided in this subsection (1)(d) does not obligate the gas pipeline company to repair all leaks scheduled for repair, nor does it prevent the gas pipeline company from prioritizing its repair schedule based on new information and newly-identified leaks.

(2) Natural gas leaks include all confirmed discoveries of unintentional leak events, including leaks from: Corrosion failure; natural force damage; excavation damage; other outside force damage; pipe, weld, or joint failure; equipment failure; or other causes.

(3) The commission may determine information requirements for the annual reports submitted under subsection (1) of this section including, but not limited to:

(a) The approximate date and location of each leak from the gas pipeline system detected by the company during its routine course of inspection;

(b) The approximate date and location of each leak caused by third-party excavation or other causes not attributable to the normal operation or inspection practices of the company;

(c) Whether the reported leaks are included as part of a filing submitted and approved by the commission under section 2 of this act;

(d) The volume of each leak, measured in carbon dioxide equivalents and thousands of cubic feet, except that where an exact volume of gas leaked cannot be identified, a gas pipeline company may provide its best approximation;

(e) Whether the identified cause of each leak was from: Corrosion failure; natural force damage; excavation damage; other outside force damage; pipe, weld, or joint failure; equipment failure; or other causes;

(f) The estimated market value of lost gas and the methodology used to measure the loss of gas; and

(g) Any additional information required in an order approved by the commission.

(4) The commission must use the data reported by gas pipeline companies under this section, as well as other data reported by gas pipeline companies to the commission and to the department of ecology, to estimate the volume of leaked gas and associated greenhouse gas emissions from operational practices in the state. The commission may request additional information by order.

(5) By March 31, 2021, and on an annual basis thereafter, the commission must provide on its public internet web site aggregate data, as submitted by gas pipeline companies under this section, concerning the volume and causes of gas leaks.

(6) By March 31, 2021, and on an annual basis thereafter, the commission must transmit to the department of ecology information on gas leakage in the state, as submitted by gas pipeline companies under this section.

(7) Those portions of reports submitted by gas pipeline companies to the commission under this section that contain proprietary data, trade secrets, or if disclosure would adversely affect public safety, are exempt from public inspection and copying under chapter 42.56 RCW.

(8) For the purposes of this section, "carbon dioxide equivalents" has the same meaning as provided in RCW 70.235.010.

(9) Nothing in this section may be construed to preempt the process by which a gas pipeline company is required to petition relevant state or local authorities when seeking to expand the capacity of the company's gas transmission or distribution lines.

Sec. 4. RCW 70.235.020 and 2008 c 14 s 3 are each amended to read as follows:

(1)(a) The state shall limit emissions of greenhouse gases to achieve the following emission reductions for Washington state:

(i) By 2020, reduce overall emissions of greenhouse gases in the state to 1990 levels;

(ii) By 2035, reduce overall emissions of greenhouse gases in the state to twenty-five percent below 1990 levels;

(iii) By 2050, the state will do its part to reach global climate stabilization levels by reducing overall emissions to fifty percent below 1990 levels, or seventy percent below the state's expected emissions that year.

(b) By December 1, 2008, the department shall submit a greenhouse gas reduction plan for review and approval to the legislature, describing those actions necessary to achieve the emission reductions in (a) of this subsection by using existing statutory authority and any additional authority granted by the legislature. Actions taken using existing statutory authority may proceed prior to approval of the greenhouse gas reduction plan.

(c) Except where explicitly stated otherwise, nothing in chapter 14, Laws of 2008 limits any state agency authorities as they existed prior to June 12, 2008.

(d) Consistent with this directive, the department shall take the following actions:

(i) Develop and implement a system for monitoring and reporting emissions of greenhouse gases as required under RCW 70.94.151; and

(ii) Track progress toward meeting the emission reductions established in this subsection, including the results from policies currently in effect that have been previously adopted by the state and policies adopted in the future, and report on that progress.

(2) By December 31st of each even-numbered year beginning in 2010, the department and the department of (~~community, trade, and economic development~~) commerce shall report to the governor and the appropriate committees of the senate and house of representatives the total emissions of greenhouse gases for the preceding two years, and totals in each major source sector, including emissions associated with leaked gas identified by the utilities and transportation commission under section 3 of this act. The department shall ensure the reporting rules adopted under RCW 70.94.151 allow it to develop a comprehensive inventory of emissions of greenhouse gases from all significant sectors of the Washington economy.

(3) Except for purposes of reporting, emissions of carbon dioxide from industrial combustion of biomass in the form of fuel wood, wood waste, wood by-products, and wood residuals shall not be considered a greenhouse gas as long as the region's silvicultural sequestration capacity is maintained or increased.

Passed by the House February 16, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 33

[Substitute House Bill 2525]

FAMILY CONNECTIONS PROGRAM--VARIOUS PROVISIONS

AN ACT Relating to establishing the family connections program; amending RCW 2.70.060, 2.70.070, 2.70.080, 2.70.090, and 74.13.802; adding a new section to chapter 74.13 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) The legislature recognizes that the department of children, youth, and families is working to change the culture of foster care and transition to a prevention-based child welfare system. The family first prevention services act will help facilitate this transition by allowing states to use federal funds for preventative services.

(2) To successfully prevent future child abuse and neglect from occurring, and minimize the impact of removal, the department should help facilitate relationships between foster families and birth parents through creation of the family connections program to strengthen families and prevent future child trauma. The legislature intends that the family connections program will put the child first, work to reduce family trauma, and support the child by helping adults learn, share, and work on understanding how best to support the child together.

(3) All services provided by the family connections program should supplement the current responsibilities and services provided by the department of children, youth, and families to families, and the family connections program is not intended to assume any responsibilities currently held by the department of children, youth, and families.

NEW SECTION. Sec. 2. A new section is added to chapter 74.13 RCW to read as follows:

(1) Beginning September 1, 2020, the department shall contract with an external organization or organizations with experience serving youth or families receiving out-of-home care services to implement and operate the family connections program, which facilitates interaction between a parent of a child found to be dependent pursuant to chapter 13.34 RCW and in out-of-home care and the individual with whom the child is placed.

(2) The external organization or organizations contracted to implement and operate the family connections program shall implement and operate the family connections program in one location west of the crest of the Cascade mountains, and one location east of the crest of the Cascade mountains.

(3) Families may be referred to the family connections program by a caseworker, an attorney, a guardian ad litem as defined in RCW 13.34.030, a parent ally, an office of public defense social worker, or the court.

(4) After receiving a referral, the family connections program shall determine whether an in-person meeting between a parent of a child found to be dependent pursuant to chapter 13.34 RCW and in out-of-home care and the individual with whom the child is placed is appropriate. If the family connections program determines that such a meeting is appropriate, the family connections program shall then determine whether:

(a) The parent of a child found to be dependent pursuant to chapter 13.34 RCW and in out-of-home care and the individual with whom the child is placed are willing to participate in an in-person meeting; and

(b) Safety concerns exist such that an in-person meeting should not occur.

(5) If the family connections program determines that an in-person meeting should occur following the analysis required by subsection (4) of this section, the family connections program shall provide a referral to the family connections program team. The family connections program team shall include a parent ally and an experienced caregiver. After receiving a referral, the family connections program team shall:

(a) Ensure that the parent ally contact the parent to prepare for an in-person meeting between the parent and caregiver;

(b) Ensure that the experienced caregiver contact the caregiver to prepare for an in-person meeting between the parent and caregiver;

(c) Convene an in-person meeting between the parent and caregiver; and

(d) Provide ongoing support to the parent and caregiver following the in-person meeting.

(6) If the family connections program determines that an in-person meeting should not occur following the analysis required under subsection (4) of this section, the family connections program team shall facilitate the exchange of information between the parent and caregiver in an appropriate manner that does not include an in-person meeting. The format of this exchange of information may include written messages, phone calls, or videoconferencing. The family connections program shall routinely reevaluate whether an in-person meeting should occur using the analysis required under subsection (4) of this section.

(7) The department shall collect data and measure outcomes for families engaging in the family connections program. By September 1, 2021, and in compliance with RCW 43.01.036, the department shall submit a report to the relevant committees of the legislature that details:

(a) Data collected for the family connections program;

(b) Outcomes for families engaging in the family connections program; and
 (c) The department's plan on how to expand the family connections program statewide.

(8) The definitions in this subsection apply throughout this section:

(a) "Experienced caregiver" means:

(i) An individual who is or has received a foster-family home license pursuant to chapter 74.15 RCW or an equivalent license from another state; or

(ii) An individual who cared for a child who was removed from his or her parent pursuant to chapter 13.34 RCW and who has a kin relationship to that child pursuant to RCW 74.13.600.

(b) "Parent ally" has the same meaning as provided in RCW 2.70.060.

(9) This section expires June 30, 2022.

Sec. 3. RCW 2.70.060 and 2015 c 117 s 2 are each amended to read as follows:

For the purposes of RCW 2.70.070 through ~~((2.70.100))~~ 2.70.090, "~~(child welfare))~~ parent ~~((mentor))~~ ally" means a parent who has successfully resolved the issues that led the parent's child into the care of the juvenile dependency court system, resulting in family reunification or another permanency outcome, and who has an interest in working collaboratively to improve the lives of children and families.

Sec. 4. RCW 2.70.070 and 2015 c 117 s 3 are each amended to read as follows:

(1) The goal of the parents for parents program is to increase the permanency and well-being of children in foster care through peer mentoring that increases parental engagement and contributes to family reunification.

(2) The parents for parents program may provide structured peer mentoring for families entering the dependency court system, administered by ~~((child welfare))~~ parent ~~((mentors))~~ allies.

Sec. 5. RCW 2.70.080 and 2015 c 117 s 4 are each amended to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, components of the parents for parents program, provided by ~~((child welfare))~~ parent ~~((mentors))~~ allies, may include:

(1) Outreach and support to parents at dependency-related hearings, beginning with the shelter care hearing;

(2) A class that educates parents about the dependency system they must navigate in order to have their children returned, empowers them with tools and resources they need to be successful with their case plan, and provides information that helps them understand and support the needs of their children;

(3) Ongoing individual peer support to help parents involved with the child welfare system;

(4) Structured, curriculum-based peer support groups.

Sec. 6. RCW 2.70.090 and 2018 c 58 s 66 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the parents for parents program shall be funded through the office of public defense and centrally administered through a pass-through to a

Washington state nonprofit-lead organization that has extensive experience supporting ~~((child-welfare))~~ parent ~~((mentors))~~ allies.

(2) Through the contract with the lead organization, each local program must be locally administered by the county superior court or a nonprofit organization that shall serve as the host organization.

(3) Local stakeholders representing key child welfare systems shall serve as parents for parents program advisors. Examples of local stakeholders include the department of children, youth, and families, the superior court, attorneys for the parents, assistant attorneys general, and court-appointed special advocates or guardians ad litem.

(4) A ~~((child-welfare))~~ parent ~~((mentor))~~ ally lead shall provide program coordination and maintain local program information.

(5) The lead organization shall provide ongoing training to the host organizations, statewide program oversight and coordination, and maintain statewide program information.

Sec. 7. RCW 74.13.802 and 2019 c 328 s 1 are each amended to read as follows:

(1) Beginning July 1, 2020, the department shall establish a child welfare housing assistance pilot program, which provides housing vouchers, rental assistance, navigation, and other support services to eligible families.

(a) The department shall operate or contract for the operation of the child welfare housing assistance pilot program under subsection (3) of this section in one county west of the crest of the Cascade mountain range and one county east of the crest of the Cascade mountain range.

(b) The child welfare housing assistance pilot program is intended to shorten the time that children remain in out-of-home care.

(2) A parent with a child who is dependent pursuant to chapter 13.34 RCW and whose primary remaining barrier to reunification is the lack of appropriate housing is eligible for the child welfare housing assistance pilot program.

(3) The department shall contract with an outside entity or entities to operate the child welfare housing assistance pilot program. If no outside entity or entities are available to operate the program or specific parts of the program, the department may operate the program or the specific parts that are not operated by an outside entity.

(4) Families may be referred to the child welfare housing assistance pilot program by a caseworker, an attorney, a guardian ad litem as defined in chapter 13.34 RCW, a ~~((child-welfare))~~ parent ~~((mentor))~~ ally as defined in RCW 2.70.060, an office of public defense social worker, or the court.

(5) The department shall consult with a stakeholder group that must include, but is not limited to, the following:

- (a) Parent allies;
- (b) Parent attorneys and social workers managed by the office of public defense parent representation program;
- (c) The department of commerce;
- (d) Housing experts;
- (e) Community-based organizations;
- (f) Advocates; and
- (g) Behavioral health providers.

(6) The stakeholder group established in subsection (5) of this section shall begin meeting after July 28, 2019, and assist the department in design of the child welfare housing assistance pilot program in areas including, but not limited to:

- (a) Equitable racial, geographic, ethnic, and gender distribution of program support;
- (b) Eligibility criteria;
- (c) Creating a definition of homeless for purposes of eligibility for the program; and
- (d) Options for program design that include outside entities operating the entire program or specific parts of the program.

(7) By December 1, 2021, the department shall report outcomes for the child welfare housing assistance pilot program to the oversight board for children, youth, and families established pursuant to RCW 43.216.015. The report must include racial, geographic, ethnic, and gender distribution of program support.

(8) The child welfare housing assistance pilot program established in this section is subject to the availability of funds appropriated for this purpose.

(9) This section expires June 30, 2022.

Passed by the House February 13, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 34

[Substitute House Bill 2527]

UNITED STATES CENSUS--RIGHTS

AN ACT Relating to protecting the rights of Washingtonians during the United States census; adding a new section to chapter 43.62 RCW; adding a new section to chapter 9A.60 RCW; adding a new section to chapter 19.86 RCW; prescribing penalties; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.62 RCW to read as follows:

(1) It is the intent of the legislature to affirm that every Washingtonian has the right and obligation to participate in the federal decennial census freely and without fear of fraud, intimidation, or harm, and to inform the public of these rights.

(2) The legislature affirms the rights of Washingtonians to all of the following, to be known as the Washington census bill of rights and responsibilities:

(a) To participate in the federal decennial census free of threat or intimidation;

(b) To the confidentiality of the information provided in the census form, as provided by federal law;

(c) To respond to the census by means made available to the respondent, either by phone, by mail, online, or in person;

(d) To request language assistance in accordance with federal law; and

(e) To verify the identity of a census worker.

(3) The secretary of state shall translate the Washington census bill of rights and responsibilities into languages other than English, consistent with the federal voting rights act of 1965, 52 U.S.C. Sec. 10503.

(4) The office of financial management shall make the Washington census bill of rights and responsibilities available on its internet web site and available for inclusion on city and county census internet web sites and census questionnaire assistance center internet web sites.

NEW SECTION. Sec. 2. A new section is added to chapter 9A.60 RCW to read as follows:

(1) A person is guilty of impersonating a census taker if the person falsely represents that he or she is a census taker with the intent to:

- (a) Interfere with the operation of the census;
- (b) Obtain information; or
- (c) Obtain consent to enter a private dwelling.

(2) Impersonating a census taker is a gross misdemeanor.

NEW SECTION. Sec. 3. A new section is added to chapter 19.86 RCW to read as follows:

Mailing materials with the intent to deceive a person into believing that the material is an official census communication, interfere with the operation of the census, or discourage a person from participating in the census constitutes an unfair or deceptive practice under this chapter.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 7, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 35

[Engrossed Substitute House Bill 2551]

GRADUATION CEREMONIES--TRIBAL REGALIA

AN ACT Relating to permitting students to wear traditional tribal regalia and objects of cultural significance at graduation ceremonies and related events; adding a new section to chapter 28A.600 RCW; adding a new section to chapter 28B.10 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature recognizes that relationships between sovereign governments are strengthened when decisions of mutual interest are based in a shared respect of cultural values. The legislature recognizes also that school districts, public schools, and institutions of higher education may use dress codes and other requirements to restrict the wearing of tribal regalia and objects of cultural significance at graduation ceremonies.

Although the restrictions may be premised on promoting uniformity, they are not appropriate in the context of government-to-government relationships and do not recognize the distinct and unique cultural heritage of Native Americans.

The legislature, therefore, intends to affirm inherent rights assured through tribal sovereignty and expressly acknowledge that students in public schools and institutions of higher education may wear traditional tribal regalia or objects of cultural significance at graduation ceremonies and related events.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.600 RCW to read as follows:

(1) School districts and public schools may not prohibit students who are members of a federally recognized tribe from wearing traditional tribal regalia or objects of Native American cultural significance along with or attached to a gown at graduation ceremonies or related school events. School districts and public schools may not require such students to wear a cap if it is incompatible with the regalia or significant object.

(2) School districts and, when necessary, public schools shall update any relevant policies or procedures in accordance with this section.

(3) For the purposes of this section, "public schools" has the same meaning as in RCW 28A.150.010.

NEW SECTION. Sec. 3. Sections 2 and 4 of this act apply to the graduating class of 2020 and subsequent graduating classes.

NEW SECTION. Sec. 4. A new section is added to chapter 28B.10 RCW to read as follows:

(1) Institutions of higher education may not prohibit students who are members of a federally recognized tribe from wearing traditional tribal regalia or objects of Native American cultural significance along with or attached to a gown at graduation ceremonies or related events. Institutions of higher education may not require such students to wear a cap if it is incompatible with the regalia or significant object.

(2) Institutions of higher education shall update any relevant policies or procedures in accordance with this section.

(3) For the purposes of this section, "institutions of higher education" has the same meaning as in RCW 28B.10.016.

NEW SECTION. Sec. 5. This act may be known and cited as the right to tribal regalia 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 immediately.

Passed by the House February 12, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 36

[Substitute House Bill 2555]

FIREARM BACKGROUND CHECKS--FRAMES AND RECEIVERS

AN ACT Relating to background check requirements for firearms classified as other under federal firearms laws; adding a new section to chapter 9.41 RCW; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 9.41 RCW to read as follows:

(1) Beginning on the date that is thirty days after the Washington state patrol issues a notification to dealers that a state firearms background check system is established within the Washington state patrol, a dealer shall use the state firearms background check system to conduct background checks for purchases or transfers of firearm frames or receivers in accordance with this section.

(a) A dealer may not deliver a firearm frame or receiver to a purchaser or transferee unless the dealer first conducts a background check of the applicant through the state firearms background check system and the requirements or time periods in RCW 9.41.092(1) have been satisfied.

(b) When processing an application for the purchase or transfer of a firearm frame or receiver, a dealer shall comply with the application, recordkeeping, and other requirements of this chapter that apply to the sale or transfer of a pistol.

(c) A signed application for the purchase or transfer of a firearm frame or receiver shall constitute a waiver of confidentiality and written request that the health care authority, mental health institutions, and other health care facilities release, to an inquiring court, law enforcement agency, or the state, information relevant to the applicant's eligibility to possess a firearm. Any mental health information received by a court, law enforcement agency, or the state pursuant to this section shall not be disclosed except as provided in RCW 42.56.240(4).

(d) The department of licensing shall keep copies or records of applications for the purchase or transfer of a firearm frame or receiver and copies or records of firearm frame or receiver transfers in the same manner as pistol and semiautomatic assault rifle application and transfer records under RCW 9.41.129.

(e) A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase a firearm frame or receiver is guilty of false swearing under RCW 9A.72.040.

(f) This section does not apply to sales or transfers of firearm frames or receivers to licensed dealers.

(2) For the purposes of this section, "firearm frame or receiver" means the federally regulated part of a firearm that provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

Passed by the House February 18, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 37

[Substitute House Bill 2567]

COURTS--IMMIGRATION ENFORCEMENT AND CIVIL ARRESTS

AN ACT Relating to the courts open to all act; adding new sections to chapter 2.28 RCW; adding a new section to chapter 3.02 RCW; adding a new section to chapter 35.20 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. (1) The legislature finds that civil arrests in and around Washington's court facilities impede the fundamental mission of Washington's courts, which is to ensure due process and access to justice for everyone. The United States supreme court has recognized that "the unhindered and untrammelled functioning of our courts is part of the very foundation of our constitutional democracy," and that a state may therefore adopt measures necessary and appropriate to safeguarding the administration of justice by its courts. *Cox v. Louisiana*, 379 U.S. 559, 562 (1965). People access courts for many reasons, including to obtain domestic violence and sexual assault protection orders, obtain child support orders, seek back wages, pay traffic fines, apply for permits, answer and defend against criminal charges, answer and defend against eviction actions, testify in civil and criminal proceedings, and get married. The administration of justice depends upon all people having free and full access to the courts.

(2) The legislature further finds that civil arrests at Washington court facilities have created a climate of fear that is deterring and preventing Washington residents from safely interacting with the justice system. Victims cannot seek protection, families cannot enter into custody agreements, and those charged with crimes cannot mount a proper defense or be held accountable. Courts and lawyers cannot deliver the promise of equal access to justice and due process under law to community members who are precluded from accessing the courts. Therefore, it is essential that the state have policies providing safeguards protecting access to justice.

(3) The legislature further finds that it is imperative that all members of our community feel safe coming to, remaining at, and returning from Washington's courts. The United States supreme court has acknowledged that a state has "the power to preserve the property under its control for the use to which it is lawfully dedicated," and that "[t]here is little doubt that in some circumstances the Government may ban the entry on to public property that is not a 'public forum' of all persons except those who have legitimate business on the premises." *United States v. Grace*, 461 U.S. 171, 178 (1983). Accordingly, Washington may regulate entry and access to the courts, and activity on courthouse premises and environs, that threatens the fair and nondiscriminatory administration of justice or the openness of courts. Additionally, the United States supreme court and the Washington supreme court have long recognized privileges against civil arrests for those attending court. In recognition of the harmful impacts of civil arrests in and around Washington courts, the legislature has a substantial and compelling interest in ensuring the courts in the state of Washington remain places where the rights and dignity of all residents are maintained and there is access to justice for all.

NEW SECTION. Sec. 2. A new section is added to chapter 2.28 RCW to read as follows:

The definitions in this section apply throughout this section and sections 3 through 5 of this act unless the context clearly requires otherwise.

(1) "Civil arrest" means the arrest of a person for an alleged violation of civil law. It is not an arrest for an alleged violation of criminal law, or for contempt of the court in which the court proceeding is taking place or will be taking place.

(2) "Court facility" means any building or space occupied or used by a court of this state, and adjacent property, including but not limited to adjacent sidewalks, all parking areas, grassy areas, plazas, court-related offices, commercial and governmental spaces within court building property, and entrances and exits from said building or space.

(3) "Court order" means a directive issued by a judge or magistrate under the authority of Article III of the United States Constitution or Article IV of the state Constitution. A "court order" includes but is not limited to warrants and subpoenas.

(4) "Court security personnel" means law enforcement agencies and officers assigned to protect court facilities or to transport in-custody individuals to and from court proceedings and private agents contracted to provide security at court facilities.

(5) "Court staff" means any municipal, county, or state employees or contractors assigned to perform duties in court facilities, including but not limited to probation officers, court security personnel, court clerks, court administrators, interpreters, court facilitators, and bailiffs.

(6) "Federal immigration authority" means any officer, employee, or person otherwise paid by or acting as an agent of the United States department of homeland security including but not limited to its subagencies, immigration and customs enforcement, and customs and border protection, and any present or future divisions thereof, charged with immigration enforcement.

(7) "Immigration or citizenship status" means as such status has been established to such individual under the immigration and nationality act.

(8) "Judge" includes justices of the supreme court, judges of the court of appeals, judges of the superior courts, judges of any court organized under Title 3 or 35 RCW, judges pro tempore, court commissioners, and magistrates.

(9) "Law enforcement action" includes but is not limited to observation of court proceedings, investigation, questioning, and arrests by law enforcement agents acting in their official capacity.

(10) "Nonpublicly available personal information" includes one or more of the following, when the information is linked with or is reasonably linkable, including via analytic technology, to the person's first name or first initial and last name: Location, home address, work address, place of birth, telephone number, social security number, driver's license number or Washington identification card number, electronic mail address, social media handle or other identifying social media information, and any other means of contacting the person.

(11) "Prosecutor" means a county prosecuting attorney, a city attorney, or the attorney general.

(12)(a) "State law enforcement agency" means any agency of the state of Washington that:

(i) Is a general authority Washington law enforcement agency as defined in RCW 10.93.020;

(ii) Is authorized to operate prisons or to maintain custody of individuals in prisons; or

(iii) Is authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities.

(b) "State law enforcement agency" does not include any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state.

NEW SECTION. Sec. 3. A new section is added to chapter 2.28 RCW to read as follows:

(1) Judges, court staff, court security personnel, prosecutors, and personnel of the prosecutor's office:

(a) Shall not inquire into or collect information about an individual's immigration or citizenship status, or place of birth, unless there is a connection between such information and an investigation into a violation of state or local criminal law; provided that a judge may make such inquiries as are necessary to adjudicate matters within their jurisdiction. The court may enter orders or conditions to maintain limited disclosure of any information regarding immigration status as it deems appropriate to protect the liberty interests of victims, the accused, civil litigants, witnesses, and those who have accompanied victims to a court facility; and

(b) Shall not otherwise provide nonpublicly available personal information about an individual, including individuals subject to community custody pursuant to RCW 9.94A.701 and 9.94A.702, to federal immigration authorities for the purpose of civil immigration enforcement, nor notify federal immigration authorities of the presence of individuals attending proceedings or accessing court services in court facilities, unless required by federal law or court order.

(2) Sections 2 through 5 of this act do not limit or prohibit any state or local agency or officer from:

(a) Sending to, or receiving from, federal immigration authorities the citizenship or immigration status of a person, or maintaining such information, or exchanging the citizenship or immigration status of an individual with any other federal, state, or local government agency, in accordance with 8 U.S.C. Sec. 1373; or

(b) Complying with any other state or federal law.

NEW SECTION. Sec. 4. A new section is added to chapter 2.28 RCW to read as follows:

(1) The governmental entity responsible for the security of a court facility, using the form described in subsection (2) of this section, shall collect the name of the law enforcement officer, agency, date, time, specific law enforcement purpose, and the proposed law enforcement action to be taken by all on-duty state and federal law enforcement officers, including plain-clothed officers, entering court facilities, unless such officer's purpose is to participate in a case or proceeding before the court. Completed forms must be immediately transmitted to the appropriate court staff. Information collected must not include personal identifying information concerning the individuals who were the target of the law enforcement action, and to the extent such individuals are identified, they must be identified by the initials of their first and last names. Completed forms must be transmitted to the administrative office of the courts on a monthly basis.

(2) The administrative office of the court shall develop a standard form to collect the information in subsection (1) of this section. The form must be developed no later than July 1, 2020. The administrative office of the courts shall

publish a quarterly report of the information collected in subsection (1) of this section beginning October 1, 2020.

(3) Designated court staff must be notified without delay if a law enforcement agent covered by this section is present in the court facility with the intent of conducting a civil arrest.

NEW SECTION. Sec. 5. A new section is added to chapter 2.28 RCW to read as follows:

(1) No person is subject to civil arrest while going to, remaining at, or returning from, a court facility, except:

- (a) Where such arrest is pursuant to a court order authorizing the arrest;
- (b) When necessary to secure the immediate safety of judges, court staff, or the public; or
- (c) Where circumstances otherwise permit warrantless arrest pursuant to RCW 10.31.100.

(2) For purposes of this section, "going to" and "returning from" includes the area within one mile of the court facility.

(3) Prior to any civil arrest in or on a court facility authorized by subsection (1)(a) of this section, a designated judicial officer shall review a court order authorizing any civil arrest to confirm compliance with subsection (1)(a) of this section.

(4) Nothing in this section narrows, or in any way lessens, any common law or other right or privilege of a person privileged from arrest pursuant to sections 2 through 4 of this act or otherwise.

NEW SECTION. Sec. 6. A new section is added to chapter 2.28 RCW to read as follows:

Sections 2 through 5 of this act apply to the following courts: The supreme court, the courts of appeal, the superior courts, and to the courts of limited jurisdiction of this state, including district and municipal courts.

NEW SECTION. Sec. 7. A new section is added to chapter 3.02 RCW to read as follows:

The provisions of sections 2 through 5 of this act apply to courts of limited jurisdiction.

NEW SECTION. Sec. 8. A new section is added to chapter 35.20 RCW to read as follows:

The provisions of sections 2 through 5 of this act apply to municipal courts.

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.

NEW SECTION. Sec. 10. This act may be known and cited as the courts open to all act.

Passed by the House February 17, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 38

[Engrossed Substitute House Bill 2571]

FISH AND WILDLIFE VIOLATIONS--ENFORCEMENT

AN ACT Relating to increased deterrence and meaningful enforcement of fish and wildlife violations; amending RCW 77.15.075, 77.15.100, 77.15.700, and 7.84.070; reenacting and amending RCW 77.15.160; and prescribing penalties.

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

Sec. 1. RCW 77.15.075 and 2012 c 176 s 8 are each amended to read as follows:

(1) Fish and wildlife officers shall have and exercise, throughout the state, such police powers and duties as are vested in sheriffs and peace officers generally. Fish and wildlife officers are general authority Washington peace officers.

(2) An applicant for a fish and wildlife officer position must be a citizen of the United States of America or a lawful permanent resident who can read and write the English language. Before a person may be appointed to act as a fish and wildlife officer, the person shall meet the minimum standards for employment with the department, including successful completion of a psychological examination and polygraph examination or similar assessment procedure administered in accordance with the requirements of RCW 43.101.095(2).

(3) Any liability or claim of liability under chapter 4.92 RCW that arises out of the exercise or alleged exercise of authority by a fish and wildlife officer rests with the department unless the fish and wildlife officer acts under the direction and control of another agency or unless the liability is otherwise assumed under an agreement between the department and another agency.

(4) The department may utilize the services of a volunteer chaplain as provided under chapter 41.22 RCW.

Sec. 2. RCW 77.15.100 and 2016 c 2 s 5 are each amended to read as follows:

(1) Fish, shellfish, and wildlife are property of the state under RCW 77.04.012. Fish and wildlife officers may sell seized, commercially taken or possessed fish and shellfish to a wholesale buyer and deposit the proceeds into the fish and wildlife enforcement reward account under RCW 77.15.425. Seized, recreationally taken or possessed fish, shellfish, and wildlife may be donated to nonprofit charitable organizations. The charitable organization must qualify for tax-exempt status under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code. Seized fish, shellfish, and wildlife may be returned to the environment or otherwise safely disposed of if storage is not practical under the circumstances, after the evidentiary value of the seized fish, shellfish, or wildlife has been preserved through photographs, measurements, biological samples, or other reasonable means. If an exculpatory value is clearly apparent in the seized fish, shellfish, or wildlife, and the exculpatory value is not otherwise reasonably obtainable, the fish, shellfish, or wildlife should be retained.

(2) Fish and wildlife officers may dispose of any covered animal species part or product seized through the enforcement of RCW 77.15.135 through a donation to a bona fide educational or scientific institution, solely for the purposes of raising awareness of the trafficking and threatened nature of endangered animals, as allowed under state, federal, and international law.

(3) Unless otherwise provided in this title, fish, shellfish, wildlife, or any covered animal species part or product taken or possessed in violation of this title or department rule shall be forfeited to the state upon:

(a) ~~Conviction ((or any outcome in criminal court whereby a person voluntarily enters into a disposition that continues or defers the case for dismissal upon the successful completion of specific terms or conditions)) as defined in RCW 77.15.050;~~

(b) A finding of guilt or plea of guilty pursuant to an amended information for any violation that was originally charged as a violation of this title or department rule regardless of whether the imposition of sentence is deferred or the penalty is suspended;

(c) Any infraction adjudicated under this title, department rule, or chapter 7.84 RCW with a final disposition of committed, paid, or uncontested, regardless of whether the violation was originally charged as a criminal offense and regardless of whether the penalty is suspended or deferred; or

(d) Any disposition of a case arising from an act originally charged as a violation of this title or department rule, or an infraction cited or referred as a violation of this title, department rule, or chapter 7.84 RCW, whereby the offender enters into a disposition that continues or defers the case for dismissal upon the successful completion of specific terms or conditions. For ((criminal)) cases resulting in other types of dispositions that are not defined in RCW 77.15.050, including findings of not guilty, not committed, or dismissal with prejudice due to a failure of proof or violation of law, the fish, shellfish, wildlife, or covered animal species part or product may be returned, or its equivalent value paid, if the fish, shellfish, wildlife, or covered animal species part or product have already been donated or sold. If a case is dismissed without prejudice and is subject to being refiled, the seized fish, shellfish, wildlife, or covered animal species part or product need not be returned until the statute of limitations for the violation has expired. Nothing in this section prevents the seizing authority from pursuing forfeiture under RCW 77.15.070 or any other statute or rule.

Sec. 3. RCW 77.15.160 and 2017 3rd sp.s. c 17 s 303 and 2017 3rd sp.s. c 8 s 42 are each reenacted and amended to read as follows:

The following acts are infractions and ~~((must))~~ may be cited and ~~((punished))~~ civil penalties imposed as provided under chapter 7.84 RCW, to include detentions for a reasonable period and investigations as provided in RCW 7.84.030. The civil provisions of this section are cumulative and nonexclusive and do not affect any criminal prosecution or investigatory authority over criminal offenses;

(1) Fishing and shellfishing infractions:

(a) Barbed hooks: Fishing for personal use with barbed hooks in violation of any department rule.

(b) Catch recording: Failing to immediately record a catch of fish or shellfish on a catch record card as required by RCW 77.32.430 or department rule.

(c) Catch reporting: Failing to return a catch record card to the department ~~((for other than Puget Sound Dungeness crab,))~~ as required by department rule.

(d) Recreational fishing: Fishing for fish or shellfish ~~and ((, without yet possessing fish or shellfish,))~~ the person:

(i) ~~((Owns, but))~~ Fails to have in the person's possession the license or the catch record card required by chapter 77.32 RCW for such an activity; or

(ii) Violates any department rule regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of fishing for fish or shellfish and the violation involves:

(A) Salmon or steelhead;

(B) Sturgeon;

(C) Game fish;

(D) Food fish;

(E) Shellfish;

(F) Unclassified fish or shellfish;

(G) Waste of food fish, game fish or shellfish. This subsection (1)(d)(ii) does not apply to use of a net to take fish under RCW 77.15.580 ~~((or the unlawful use of shellfish gear for personal use under RCW 77.15.382))~~ or unlawful recreational fishing in the first degree under RCW 77.15.370.

(e) Seaweed: Taking, possessing, or harvesting less than two times the daily possession limit of seaweed:

(i) While ~~((owning, but not having in the person's possession,))~~ the person is not in possession of the license required by chapter 77.32 RCW; or

(ii) In violation of any rule of the department or the department of natural resources regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of taking, possessing, or harvesting of seaweed.

~~((f) Unclassified fish or shellfish: Taking unclassified fish or shellfish in violation of any department rule by killing, fishing, taking, holding, possessing, or maliciously injuring or harming fish or shellfish that is not classified as game fish, food fish, shellfish, protected fish, or endangered fish.~~

~~(g) Wasting fish or shellfish: Killing, taking, or possessing fish or shellfish having a value of less than two hundred fifty dollars and allowing the fish or shellfish to be wasted.))~~

(2) Hunting infractions:

(a) A person engages in an activity defined by chapter 77.32 RCW while not having in the person's possession or having failed to purchase the hunting license or tag required by that chapter, not including big game.

(b) Eggs or nests: Maliciously, and without permit authorization, destroying, taking, or harming the eggs or active nests of a wild bird not classified as endangered or protected. For purposes of this subsection, "active nests" means nests that contain eggs or fledglings.

~~((b) Unclassified wildlife: Taking unclassified wildlife in violation of any department rule by killing, hunting, taking, holding, possessing, or maliciously injuring or harming wildlife that is not classified as big game, game animals, game birds, protected wildlife, or endangered wildlife.~~

~~(c) Wasting wildlife: Killing, taking, or possessing wildlife that is not classified as big game and has a value of less than two hundred fifty dollars, and allowing the wildlife to be wasted.~~

~~(d) Wild animals: Hunting for wild animals not classified as big game and, without yet possessing the wild animals, the person owns, but fails to have in the person's possession, all licenses, tags, or permits required by this title.~~

~~(e) Wild birds: Hunting for and, without yet possessing a wild bird or birds, the person:~~

~~(i) Owns, but fails to have in the person's possession, all licenses, tags, stamps, and permits required under this title; or~~

~~(ii) Violates any department rule regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of hunting wild birds.)~~

(c) Hunting for wildlife not classified as big game and the person violates any department rule regarding seasons, closed areas, closed times, or any other rule defining the method or manner of hunting or taking wildlife and the violation involves:

(i) Unclassified wildlife:

(ii) Small game:

(iii) Furbearers:

(iv) Game birds:

(v) Wild birds:

(vi) Wild animals:

(vii) Waste of small game.

(3) Trapping, taxidermy, fur dealing, and wildlife meat cutting infractions:

(a) Recordkeeping and reporting: If a person is a taxidermist, fur dealer, or wildlife meat cutter who is processing, holding, or storing wildlife for commercial purposes, failing to:

(i) Maintain records as required by department rule; or

(ii) Report information from these records as required by department rule.

(b) Trapper's report: Failing to report trapping activity as required by department rule.

(4) Limited fish seller infraction: Failure of a holder of a limited fish seller endorsement to satisfy the food safety requirements to consumers under RCW 77.65.510(2).

(5)(a) Invasive species management infractions:

(i) Out-of-state certification: Entering Washington in possession of an aquatic conveyance that does not meet certificate of inspection requirements as provided under RCW 77.135.100;

(ii) Clean and drain requirements: Possessing an aquatic conveyance that does not meet clean and drain requirements under RCW 77.135.110;

(iii) Clean and drain orders: Possessing an aquatic conveyance and failing to obey a clean and drain order under RCW 77.135.110 or 77.135.120; and

(iv) Aquatic invasive species prevention permit requirements: Failing to possess a valid aquatic invasive species prevention permit as required under RCW 77.135.210, 77.135.220, or 77.135.230.

(b) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this subsection (5).

(6) Other infractions:

(a) Contests: Unlawfully conducting, holding, or sponsoring a hunting contest, a fishing contest involving game fish, or a competitive field trial using live wildlife.

(b) Other rules: Violating any other department rule that is designated by rule as an infraction.

(c) Posting signs: Posting signs preventing hunting or fishing on any land not owned or leased by the person doing the posting, or without the permission of the person who owns, leases, or controls the land posted.

(d) ~~((Scientific))~~ Department permits: ~~((Using a scientific permit issued by the director for fish, shellfish, or wildlife, but not including big game or big game parts))~~ Except as provided in RCW 77.15.750, using a department permit issued by the department, and the person:

(i) Violates any terms or conditions of the ~~((scientific))~~ permit; ~~((or))~~

(ii) Violates any department rule applicable to the issuance or use of ~~((scientific))~~ permits; or

(iii) Violates any commercial use or activity permits, noncommercial use or activity permits, or parking permits.

(e) This subsection does not apply to discover pass, vehicle access pass, or day-use permit requirements or penalties pursuant to RCW 79A.80.080.

Sec. 4. RCW 77.15.700 and 2012 c 176 s 35 are each amended to read as follows:

(1) The department shall revoke a person's recreational license or licenses and suspend a person's recreational license privileges in the following circumstances:

(a) Upon conviction, if directed by statute for an offense.

(b) Upon conviction, failure to appear at a hearing to contest an infraction or criminal charge, or an unvacated payment of a fine or a finding of committed as a final disposition for any infraction, if the department finds that actions of the defendant demonstrated a willful or wanton disregard for conservation of fish or wildlife. Suspension of privileges under this subsection ~~((may be))~~ is permanent.

(c) If a person is convicted, fails to appear at a hearing to contest an infraction or criminal citation, or has an unvacated payment of a fine or a finding of committed as a final disposition for any infraction, twice within ten years for a violation involving unlawful hunting, killing, or possessing big game. Revocation and suspension under this subsection must be ordered for all hunting privileges for at least two years and up to ten years.

(d) If a person violates, three times or more in a ten-year period, recreational hunting or fishing laws or rules for which the person: (i) Is convicted of an offense; (ii) has an unvacated payment of a fine or a finding of committed as a final disposition for any infraction; or (iii) fails to appear at a hearing to contest an infraction or a criminal citation. Revocation and suspension under this subsection must be ordered of all recreational hunting and fishing privileges for at least two years and up to ten years.

(2)(a) A violation punishable as an infraction counts towards the revocation and suspension of recreational hunting and fishing privileges under this section if that violation is:

(i) Punishable as a crime on July 24, 2005, and is subsequently decriminalized; or

(ii) One of the following violations, as they exist on July 24, 2005: RCW 77.15.160; WAC 220-56-116; WAC 220-56-315(11); or WAC 220-56-355 (1) through (4).

(b) The commission may, by rule, designate infractions that do not count towards the revocation and suspension of recreational hunting and fishing privileges.

(3) If either the deferred education licensee or the required nondeferred accompanying person, hunting under the authority of RCW 77.32.155(2), is convicted of a violation of this title, fails to appear at a hearing to contest a fish and wildlife infraction or a criminal citation, or has an unvacated payment of a fine or a finding of committed as a final disposition for any fish and wildlife infraction, except for a violation of RCW 77.15.400 (1) through (4), the department may revoke all hunting licenses and tags and may order a suspension of either or both the deferred education licensee's and the nondeferred accompanying person's hunting privileges for one year.

(4) A person who has a recreational license revoked and privileges suspended under this section may file an appeal with the department pursuant to chapter 34.05 RCW. An appeal must be filed within twenty days of notice of license revocation and privilege suspension. If an appeal is filed, the revocation and suspension issued by the department do not take effect until twenty-one days after the department has delivered an opinion. If no appeal is filed within twenty days of notice of license revocation and suspension, the right to an appeal is waived, and the revocation and suspension take effect twenty-one days following the notice of revocation and suspension.

(5) A recreational license revoked and privilege suspended under this section is in addition to the statutory penalties assigned to the underlying violation.

Sec. 5. RCW 7.84.070 and 1987 c 380 s 7 are each amended to read as follows:

(1) Procedures for the conduct of all hearings provided for in this chapter may be established by rule of the supreme court.

(2) Any person subject to proceedings under this chapter may be represented by counsel.

(3) The attorney representing the state, county, city, town, or agency authorized to issue an infraction as defined in RCW 7.84.020 may appear in any proceedings under this chapter but need not appear, notwithstanding any statute or rule of court to the contrary.

Passed by the House February 16, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 39

[Substitute House Bill 2589]

STUDENT AND STAFF IDENTIFICATION CARDS--SUICIDE PREVENTION AND CRISIS INTERVENTION INFORMATION

AN ACT Relating to requiring contact information for suicide prevention and crisis intervention organizations on student and staff identification cards; adding a new section to chapter 28A.210 RCW; adding a new section to chapter 28B.10 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 there are national and local organizations specializing in suicide prevention, crisis intervention, and

counseling that provide free, confidential emotional support for people who are in suicidal crisis or emotional distress. Immediate access to these services often prevents suicide, attempted suicide, and other harm. The federal government recognized the importance of free support services when, in 2005, it launched a ten digit national suicide prevention lifeline and then, in 2019, it announced plans to designate 988 as the national suicide prevention and mental health crisis hotline. The contact information for these lifesaving services should be easily accessible to Washington residents, particularly students and the caring adults who work with them. Therefore, the legislature intends to require that contact information for suicide prevention and crisis intervention organizations be printed on student and staff identification cards.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.210 RCW to read as follows:

(1) Within existing resources, every public school that issues student identification cards, staff identification cards, or both, must have printed on either side of the identification cards:

(a) The contact information for a national suicide prevention organization; and

(b) The contact information for one or more campus, local, state, or national organizations specializing in suicide prevention, crisis intervention, or counseling, if available.

(2) The requirements in subsection (1) of this section apply to student identification cards and staff identification cards issued for the first time and issued to replace a damaged or lost identification card.

NEW SECTION. Sec. 3. A new section is added to chapter 28B.10 RCW to read as follows:

(1) Within existing resources, every institution of higher education as defined in RCW 28B.10.016 that issues student identification cards, faculty or staff identification cards, or both, must have printed on either side of the identification cards:

(a) The contact information for a national suicide prevention organization; and

(b) The contact information for one or more campus, local, state, or national organizations specializing in suicide prevention, crisis intervention, or counseling, if available.

(2) The requirements in subsection (1) of this section apply to student identification cards and faculty or staff identification cards issued for the first time and issued to replace a damaged or lost identification card.

NEW SECTION. Sec. 4. (1) Notwithstanding the requirements in sections 2 and 3 of this act, if a school or institution of higher education subject to the requirements of section 2 or 3 of this act, respectively, has a supply of unissued identification cards that do not comply with the requirements of section 2 or 3 of this act, the school or institution of higher education may issue those identification cards until that supply is depleted.

(2) This section expires June 30, 2021.

Passed by the House February 12, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 40

[House Bill 2617]

SCHOOL DISTRICT SURPLUS REAL PROPERTY--LEASE OR RENTAL FOR AFFORDABLE HOUSING

AN ACT Relating to the lease or rental of surplus property of school districts; amending RCW 28A.335.040; and creating a new section.

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

Sec. 1. RCW 28A.335.040 and 1991 c 116 s 12 are each amended to read as follows:

(1) Every school district board of directors is authorized to permit the rental, lease, or occasional use of all or any portion of any surplus real property owned or lawfully held by the district to any person, corporation, or government entity for profit or nonprofit, commercial or noncommercial purposes: PROVIDED, That the leasing or renting or use of such property is for a lawful purpose and does not interfere with conduct of the district's educational program and related activities: PROVIDED FURTHER, That the lease or rental agreement entered into shall include provisions which permit the recapture of the leased or rented surplus property of the district should such property be needed for school purposes in the future except in such cases where(~~due~~):

(a) Due to proximity to an international airport, land use has been so permanently altered as to preclude the possible use of the property for a school housing students and the school property has been heavily impacted by surrounding land uses so that a school housing students would no longer be appropriate in that area; or

(b) The property is leased or rented for affordable housing purposes under RCW 39.33.015.

(2) Authorization to rent, lease or permit the occasional use of surplus school property under this section, RCW 28A.335.050 and 28A.335.090 is conditioned on the establishment by each school district board of directors of a policy governing the use of surplus school property.

(3) The board of directors of any school district desiring to rent or lease any surplus real property owned by the school district shall publish a written notice in a newspaper of general circulation in the school district for rentals or leases totaling ten thousand dollars or more in value. School districts shall not rent or lease the property for at least forty-five days following the publication of the newspaper notice.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the rental or lease of surplus real property and to have such bids considered along with all other bids: PROVIDED, That the school board may establish reasonable conditions for the use of such real property to assure the safe and proper operation of the property in a manner consistent with board policies.

NEW SECTION. Sec. 2. Section 1 of this act is remedial and curative in nature and applies retroactively to any lease or rental agreement entered into on or after January 1, 2018.

Passed by the House February 18, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 41

[House Bill 2682]

CHILDREN WITH DEVELOPMENTAL DISABILITIES--OUT-OF-HOME SERVICES

AN ACT Relating to out-of-home services; amending RCW 74.13.350; reenacting and amending RCW 13.04.030; adding a new chapter to Title 71A RCW; recodifying RCW 74.13.350; and repealing RCW 13.34.270.

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

Sec. 1. RCW 74.13.350 and 2019 c 470 s 17 are each amended to read as follows:

~~((+))~~ It is the intent of the legislature that parents are responsible for the care and support of children with developmental disabilities. The legislature recognizes that, because of the intense support required to care for a child with developmental disabilities, the help of ~~((an))~~ out-of-home ~~((placement))~~ services may be needed. It is the intent of the legislature that, when the sole reason for ~~((the))~~ out-of-home ~~((placement))~~ services is the child's developmental disability, such services be offered by the department to these children ~~((and their families))~~ through a voluntary ~~((placement agreement. In these cases, the parents shall retain legal custody of the child.~~

~~(2) Under the terms of a voluntary placement agreement, the parent or legal guardian shall retain legal custody and the department shall be responsible for the child's placement and care. The agreement shall at a minimum specify the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the department while the child is in placement. The agreement must be signed by the child's parent or legal guardian and the department to be in effect, except that an agreement regarding an Indian child shall not be valid unless executed in accordance with RCW 13.38.150. Any party to a voluntary placement agreement may terminate the agreement at any time. Upon termination of the agreement, the child shall be returned to the care of the child's parent or legal guardian unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.~~

~~(3) Whenever the department places a child in out-of-home care under a voluntary placement pursuant to this section, the department shall have the responsibility for the child's placement and care. The department shall develop a permanency plan of care for the child no later than sixty days from the date that the department assumes responsibility for the child's placement and care. Within the first one hundred eighty days of the placement, the department shall obtain a judicial determination pursuant to RCW 13.04.030(1)(j) and 13.34.270 that the placement is in the best interests of the child. If the child's out-of-home placement ends before one hundred eighty days have elapsed, no judicial determination under RCW 13.04.030(1)(b) is required. The permanency planning hearings shall review whether the child's best interests are served by~~

~~continued out of home placement and determine the future legal status of the child.~~

~~(4) The department shall provide for periodic administrative reviews as required by federal law. A review may be called at any time by either the department, the parent, or the legal guardian.~~

~~(5) Nothing in this section shall prevent the department of children, youth, and families from filing a dependency petition if there is reason to believe that the child is a dependent child as defined in RCW 13.34.030.~~

~~(6) The department shall adopt rules providing for the implementation of chapter 386, Laws of 1997 and the transfer of responsibility for out of home placements from the dependency process under chapter 13.34 RCW to the process under this chapter.~~

~~(7) It is the intent of the legislature that the department undertake voluntary out of home placement in cases where the child's developmental disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child, and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home. If the department does not accept a voluntary placement agreement signed by the parent, a petition may be filed and an action pursued under chapter 13.34 RCW. The department shall inform the parent, guardian, or legal custodian in writing of their right to civil action under chapter 13.34 RCW.~~

~~(8) Nothing in this section prohibits the department of children, youth, and families from seeking support from parents of a child, including a child with a developmental disability if the child has been placed into care as a result of an action under chapter 13.34 RCW, when state or federal funds are expended for the care and maintenance of that child or when the department receives an application for services from the physical custodian of the child, unless the department of children, youth, and families finds that there is good cause not to pursue collection of child support against the parent or parents.~~

~~(9) For the purposes of this section:~~

~~(a) Unless the context clearly requires otherwise, "department" means the department of social and health services.~~

~~(b) "Out of home placement" and "out of home care" mean the placement of a child in a foster family home or group care facility licensed under chapter 74.15 RCW.~~

~~(c) "Voluntary placement agreement" means a written agreement between the department of social and health services and a child's parent or legal guardian authorizing the department to place the child in a licensed facility)) person-centered service planning process and in accordance with rules adopted by the department.~~

NEW SECTION. Sec. 2. (1) Under the person-centered service plan, the parent or legal guardian retains legal custody for the child's placement and care. The service plan must be signed by the child's parent or legal guardian and the department to be in effect.

(2) The parent or legal guardian may terminate services at any time. Upon termination of services, the child's parent or legal guardian retains legal custody for the child's placement and care unless the child has been taken into custody by the department of children, youth, and families, pursuant to RCW 13.34.050 or

26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.

(3) The department of social and health services must adopt rules for the person-centered service plan.

(4) For purposes of this section, "person-centered service plan" means a written plan between the department and a child's parent or legal guardian approving services for the child in a licensed or certified setting.

NEW SECTION. Sec. 3. (1) It is the intent of the legislature that the department offer voluntary out-of-home services in cases where the sole reason for the child's out-of-home services is due to the child's developmental disability and the parent, guardian, or legal custodian has determined that the child would benefit from services outside of the home. If the department does not offer out-of-home services, a petition may be filed and an action pursued under chapter 13.34 RCW.

(2) Nothing in this section prevents the department of children, youth, and families from filing a dependency petition if there is reason to believe that the child is a dependent child as defined in RCW 13.34.030.

(3) The department must adopt rules for out-of-home services.

(4) As used in this section, "out-of-home services" means the services provided to a child by a provider that is licensed to serve children under chapter 74.15 RCW and is contracted by the department or provided by a state-operated community program of the developmental disabilities administration.

Sec. 4. RCW 13.04.030 and 2019 c 322 s 9 and 2019 c 46 s 5015 are each reenacted and 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 13.34.161;

(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. 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. The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110 (1) or (2) or (e)(i) of this subsection. 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: One or more prior serious violent offenses; two or more prior violent offenses; or 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; or

(C) Rape of a child in the first degree.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)(C)(II) and (III) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of an offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall maintain residual juvenile court jurisdiction up to age twenty-five if the juvenile has turned eighteen years of age during the adult criminal court proceedings but only for the purpose of returning a case to juvenile court for disposition pursuant to RCW 13.40.300(3)(d).

(III) The prosecutor and respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction in (e)(v)(A) through (C) of this subsection and remove the proceeding back to juvenile court with the court's approval.

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; and

(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 and the department of children, youth, and families)).~~

(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 and parenting plans or residential schedules under chapter 26.09, 26.26A, or 26.26B 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.

NEW SECTION. Sec. 5. RCW 13.34.270 (Child with developmental disability—Out-of-home placement—Permanency planning hearing) and 2019 c 470 s 1, 2004 c 183 s 2, 2000 c 122 s 33, 1998 c 229 s 2, & 1997 c 386 s 19 are each repealed.

NEW SECTION. Sec. 6. RCW 74.13.350 is recodified as a section in the chapter created in section 7 of this act.

NEW SECTION. Sec. 7. Sections 2 and 3 of this act constitute a new chapter in Title 71A RCW.

Passed by the House February 19, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 42

[House Bill 2762]

PEER SUPPORT GROUP TESTIMONIAL PRIVILEGE--DEPARTMENT OF CORRECTIONS
STAFF

AN ACT Relating to extending the peer support group testimonial privilege to include staff persons of the department of corrections; and amending RCW 5.60.060.

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

Sec. 1. RCW 5.60.060 and 2019 c 98 s 1 are each amended to read as follows:

(1) A spouse or domestic partner shall not be examined for or against his or her spouse or domestic partner, without the consent of the spouse or domestic partner; nor can either during marriage or during the domestic partnership or afterward, be without the consent of the other, examined as to any

communication made by one to the other during the marriage or the domestic partnership. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse or domestic partner if the marriage or the domestic partnership occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said spouse or domestic partner against any child of whom said spouse or domestic partner is the parent or guardian, nor to a proceeding under chapter 71.05 or 71.09 RCW: PROVIDED, That the spouse or the domestic partner of a person sought to be detained under chapter 71.05 or 71.09 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.

(2)(a) An attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the client to him or her, or his or her advice given thereon in the course of professional employment.

(b) A parent or guardian of a minor child arrested on a criminal charge may not be examined as to a communication between the child and his or her attorney if the communication was made in the presence of the parent or guardian. This privilege does not extend to communications made prior to the arrest.

(3) A member of the clergy, a Christian Science practitioner listed in the Christian Science Journal, or a priest shall not, without the consent of a person making the confession or sacred confidence, be examined as to any confession or sacred confidence made to him or her in his or her professional character, in the course of discipline enjoined by the church to which he or she belongs.

(4) Subject to the limitations under RCW 71.05.360 (8) and (9), a physician or surgeon or osteopathic physician or surgeon or podiatric physician or surgeon shall not, without the consent of his or her patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him or her to prescribe or act for the patient, except as follows:

(a) In any judicial proceedings regarding a child's injury, neglect, or sexual abuse or the cause thereof; and

(b) Ninety days after filing an action for personal injuries or wrongful death, the claimant shall be deemed to waive the physician-patient privilege. Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.

(5) A public officer shall not be examined as a witness as to communications made to him or her in official confidence, when the public interest would suffer by the disclosure.

(6)(a) A peer support group counselor shall not, without consent of the ~~((first responder or jail staff person))~~ peer support group client making the communication, be compelled to testify about any communication made to the counselor by the ~~((first responder or jail staff person))~~ peer support group client while receiving counseling. The counselor must be designated as such by the agency employing the ~~((first responder or jail staff person))~~ peer support group client prior to the incident that results in counseling. The privilege only applies when the communication was made to the counselor while acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding first responder, department of corrections

staff person, or jail staff person~~(s)~~; a witness~~(s)~~; or a party to the incident which prompted the delivery of peer support group counseling services to the ~~((first responder or jail staff person))~~ peer support group client.

(b) For purposes of this section:

(i) "First responder" means:

(A) A law enforcement officer;

(B) A limited authority law enforcement officer;

(C) A firefighter;

(D) An emergency services dispatcher or recordkeeper;

(E) Emergency medical personnel, as licensed or certified by this state; or

(F) A member or former member of the Washington national guard acting in an emergency response capacity pursuant to chapter 38.52 RCW.

(ii) "Law enforcement officer" means a general authority Washington peace officer as defined in RCW 10.93.020~~(s)~~.

(iii) "Limited authority law enforcement officer" means a limited authority Washington peace officer as defined in RCW 10.93.020 who is employed by the department of corrections, state parks and recreation commission, department of natural resources, liquor and cannabis board, or Washington state gambling commission~~(s and)~~.

(iv) "Peer support group client" means:

(A) A first responder;

(B) A department of corrections staff person; or

(C) A jail staff person.

(v) "Peer support group counselor" means:

(A) A first responder, department of corrections staff person, or jail staff person or a civilian employee of a first responder entity or agency, local jail, or state agency who has received training to provide emotional and moral support and counseling to a ~~((first responder or jail staff person))~~ peer support group client who needs those services as a result of an incident in which the ~~((first responder or jail staff person))~~ peer support group client was involved while acting in his or her official capacity; or

(B) A nonemployee counselor who has been designated by the first responder entity or agency, local jail, or state agency to provide emotional and moral support and counseling to a ~~((first responder or jail staff person))~~ peer support group client who needs those services as a result of an incident in which the ~~((first responder or jail staff person))~~ peer support group client was involved while acting in his or her official capacity.

(7) A sexual assault advocate may not, without the consent of the victim, be examined as to any communication made between the victim and the sexual assault advocate.

(a) For purposes of this section, "sexual assault advocate" means the employee or volunteer from a community sexual assault program or underserved populations provider, victim assistance unit, program, or association, that provides information, medical or legal advocacy, counseling, or support to victims of sexual assault, who is designated by the victim to accompany the victim to the hospital or other health care facility and to proceedings concerning the alleged assault, including police and prosecution interviews and court proceedings.

(b) A sexual assault advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any sexual assault advocate participating in good faith in the disclosing of records and communications under this section shall have immunity from any liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this section, the good faith of the sexual assault advocate who disclosed the confidential communication shall be presumed.

(8) A domestic violence advocate may not, without the consent of the victim, be examined as to any communication between the victim and the domestic violence advocate.

(a) For purposes of this section, "domestic violence advocate" means an employee or supervised volunteer from a community-based domestic violence program or human services program that provides information, advocacy, counseling, crisis intervention, emergency shelter, or support to victims of domestic violence and who is not employed by, or under the direct supervision of, a law enforcement agency, a prosecutor's office, or the child protective services section of the department of ~~((social and health services))~~ children, youth, and families as defined in RCW 26.44.020.

(b) A domestic violence advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. This section does not relieve a domestic violence advocate from the requirement to report or cause to be reported an incident under RCW 26.44.030(1) or to disclose relevant records relating to a child as required by RCW 26.44.030~~((+4))~~ (15). Any domestic violence advocate participating in good faith in the disclosing of communications under this subsection is immune from liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this subsection, the good faith of the domestic violence advocate who disclosed the confidential communication shall be presumed.

(9) A mental health counselor, independent clinical social worker, or marriage and family therapist licensed under chapter 18.225 RCW may not disclose, or be compelled to testify about, any information acquired from persons consulting the individual in a professional capacity when the information was necessary to enable the individual to render professional services to those persons except:

(a) With the written authorization of that person or, in the case of death or disability, the person's personal representative;

(b) If the person waives the privilege by bringing charges against the mental health counselor licensed under chapter 18.225 RCW;

(c) In response to a subpoena from the secretary of health. The secretary may subpoena only records related to a complaint or report under RCW 18.130.050;

(d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.360 (8) and (9); or

(e) To any individual if the mental health counselor, independent clinical social worker, or marriage and family therapist licensed under chapter 18.225

RCW reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the individual or any other individual; however, there is no obligation on the part of the provider to so disclose.

(10) An individual who acts as a sponsor providing guidance, emotional support, and counseling in an individualized manner to a person participating in an alcohol or drug addiction recovery fellowship may not testify in any civil action or proceeding about any communication made by the person participating in the addiction recovery fellowship to the individual who acts as a sponsor except with the written authorization of that person or, in the case of death or disability, the person's personal representative.

Passed by the House February 13, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 43

[Engrossed Substitute House Bill 2783]

MOBILE ON-DEMAND GASOLINE PROVIDERS--FIRE SAFETY

AN ACT Relating to standardizing fire safety requirements for mobile on-demand gasoline providers; and adding a new section to chapter 19.27 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 19.27 RCW to read as follows:

(1) The Washington state building code council shall adopt and amend rules, as necessary, for the purpose of clarifying standards and administrative provisions for mobile on-demand gasoline operations, as that term is defined in the 2018 international fire code. The purpose of this chapter is to aid local authorities having jurisdiction in establishing timely and consistent permitting structures, including standard minimum conditions, while eliminating redundancies and improving upon the efficiency of the permitting process. Section 5707 of the 2018 international fire code shall be amended by the council to provide for permitting provisions. All other requirements set forth in section 5707 of the 2018 international fire code shall remain in force. The rules and associated provisions shall be finalized and available for local jurisdictions by May 2021.

(2) The Washington state building code council shall request recommendations from the Washington state association of fire marshals prior to clarifying standards and administrative provisions for mobile on-demand fueling.

(3) Rules adopted by the council shall provide provisions and administrative guidelines to accomplish the purpose stated in subsection (1) of this section, and address:

(a) The creation of a "mobile on-demand operator" certification for owners of mobile on-demand fueling businesses that will conform to the provisions in section 5707 of the 2018 international fire code. In adopting such rules, the Washington state building code council shall establish minimum standards and requirements consistent with section 5707 of the 2018 international fire code and

shall consider options including, but not limited to, standardized permitting processes, standardized operational requirements, and a reciprocal acceptance of certification by jurisdictions in Washington state;

(b) The creation of a "mobile on-demand fueling truck" permit or certification. In adopting such rules, the Washington state building code council shall establish minimum standards and requirements consistent with section 5707 of the 2018 international fire code and shall consider options including, but not limited to, standardized permitting or certification requirements, standardized vehicular requirements, and processes that do not require multiple substantially similar inspections of a particular vehicle for such vehicle to operate in multiple jurisdictions; and

(c) A site permit consistent with 2018 international fire code 105.6.16(11). The site permit shall be issued by local jurisdictions that allow mobile fueling, if the local jurisdiction requires a mobile on-demand fueling site permit. Conditions for permitting will be set forth by the local jurisdiction. Local jurisdictions shall issue the permit using the standard conditions and may include local provisions as necessitated by zoning laws, environmental laws, fire code and public safety, and characteristics of the sites being permitted.

(i) The site permit structure shall provide at least two tiers. When local jurisdictions determine that specific sites or collections of sites do not present atypical geographic, safety, or environmental concerns, they may add these sites to their tier 1 list, provide expedited permitting review that shall allow permit issuance prior to site inspection, and perform the site inspection during the period of permit validity. Tier 2 permits will be issued for sites that are not on the tier 1 list, and may require site inspection prior to issuance. Nothing in this section prevents a local fire marshal from having the authority to inspect a standard on-demand fueling location, to add additional requirements for said location, or to revoke permission to operate in a particular location for a specific safety or environmental reason.

(ii) After receiving an application complete with supporting documentation and payment, local jurisdictions that issue a tier 1 or tier 2 site permit, or both, shall make a good faith effort to reach a permit decision expeditiously.

(4) Nothing considered or adopted by the Washington state building code council shall prevent a local fire marshal from having the authority to inspect any mobile on-demand fueling site, to add additional requirements for any site, or to revoke permission to operate in a particular site for a specific safety or environmental reason.

(5) Fees may be charged to offset part or all of the inspection and issuing costs, including applicable administrative costs and overhead.

Passed by the House February 18, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 44

[Substitute House Bill 2785]

CRIMINAL JUSTICE TRAINING COMMISSION--MEMBERSHIP

AN ACT Relating to the membership of the criminal justice training commission; and amending RCW 43.101.030.

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

Sec. 1. RCW 43.101.030 and 1999 c 97 s 1 are each amended to read as follows:

The commission shall consist of (~~fourteen~~) sixteen members, who shall be selected as follows:

(1) The governor shall appoint two incumbent sheriffs and two incumbent chiefs of police.

(2) The governor shall appoint one officer at or below the level of first line supervisor from a county law enforcement agency and one officer at or below the level of first line supervisor from a municipal law enforcement agency. Each appointee under this subsection (2) shall have at least ten years experience as a law enforcement officer.

(3) The governor shall appoint one person employed in a county correctional system and one person employed in the state correctional system.

(4) The governor shall appoint one incumbent county prosecuting attorney or municipal attorney.

(5) The governor shall appoint one elected official of a local government.

(6) The governor shall appoint (~~one~~) two private citizens, one from east of the crest of the Cascade mountains and one from west of the crest of the Cascade mountains. At least one of the private citizens must be from a historically underrepresented community or communities.

(7) The governor shall appoint one tribal chair, board member, councilmember, or designee from a federally recognized tribe with an active certification agreement under RCW 43.101.157.

(8) The three remaining members shall be:

(a) The attorney general;

(b) The special agent in charge of the Seattle office of the federal bureau of investigation; and

(c) The chief of the state patrol.

Passed by the House February 18, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 45

[Engrossed House Bill 2792]

MISSING AND UNIDENTIFIED PERSONS

AN ACT Relating to missing and unidentified persons; amending RCW 68.50.320 and 68.50.330; adding a new section to chapter 36.28A RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that a recent search of available missing and unidentified persons data for Washington state returned one thousand nine hundred twenty-six pending missing persons cases and one hundred seventy-two records of full or partial unidentified remains throughout the state. Every one of these individuals is someone's family member or loved one.

The legislature further finds that more can be done to reduce the number of missing and unidentified Washingtonians through the utilization of national resources. The national missing and unidentified persons system is a publicly searchable resource developed by the national institute of justice that contains databases of missing persons and unidentified persons cases from across the country. Cases entered into these databases are verified with local authorities and are automatically searched against one another. The national missing and unidentified persons system also has the ability to compile potentially identifiable information and available biometric data, such as DNA, including family reference samples, dental records, and fingerprints. Participation in the national missing and unidentified persons system is free, and biometric sample kits are funded through the national missing and unidentified persons system, alleviating the burden on contributing local governments. At the close of 2019, the national missing and unidentified persons system databases included nearly seventeen thousand published outstanding missing persons cases, and over thirteen thousand published unidentified persons cases. In addition, over nineteen thousand missing persons cases and over four thousand unidentified persons cases that were included in the national missing and unidentified persons system have been resolved.

The legislature recognizes that participating in this centralized and nationally based system is to the advantage of the citizens of the state, and intends to establish a system of consistent statewide participation in order to achieve its full benefit.

Sec. 2. RCW 68.50.320 and 2007 c 10 s 5 are each amended to read as follows:

When a person reported missing has not been found within thirty days of the report, or at any time the investigating agency suspects criminal activity to be the basis of the victim being missing, the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority initiating and conducting the investigation for the missing person shall: (1) File a missing person's report with the Washington state patrol missing and unidentified persons unit; (2) initiate the collection of DNA samples from the known missing person and their family members for nuclear and mitochondrial DNA testing along with the necessary consent forms; ~~((and))~~ (3) ask the missing person's family or next of kin to give written consent to contact the dentist or dentists of the missing person and request the person's dental records; and (4) enter the case into the national crime information center system through the Washington state patrol electronic database.

The missing person's dentist or dentists shall provide diagnostic quality copies of the missing person's dental records or original dental records to the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority, when presented with the written consent from the missing person's family or next of kin or with a statement from the sheriff, chief

of police, county coroner or county medical examiner, or other law enforcement authority that the missing person's family or next of kin could not be located in the exercise of due diligence or that the missing person's family or next of kin refuse to consent to the release of the missing person's dental records and there is reason to believe that the missing person's family or next of kin may have been involved in the missing person's disappearance.

As soon as possible after collecting the DNA samples, the sheriff, chief of police, or other law enforcement authority shall submit the DNA samples to the appropriate laboratory. Dental records shall be submitted as soon as possible to the Washington state patrol missing and unidentified persons unit.

The descriptive information from missing person's reports and dental data submitted to the Washington state patrol missing and unidentified persons unit shall be recorded and maintained by the Washington state patrol missing and unidentified persons unit in the applicable dedicated missing person's databases.

When a person reported missing has been found, the sheriff, chief of police, coroner or medical examiner, or other law enforcement authority shall report such information to the Washington state patrol.

The dental identification system shall maintain a file of information regarding persons reported to it as missing. The file shall contain the information referred to in this section and such other information as the Washington state patrol finds relevant to assist in the location of a missing person.

The files of the dental identification system shall, upon request, be made available to law enforcement agencies attempting to locate missing persons.

Sec. 3. RCW 68.50.330 and 2001 c 172 s 1 are each amended to read as follows:

If the county coroner or county medical examiner investigating a death is unable to establish the identity of a body or human remains by visual means, fingerprints, or other identifying data, he or she shall have a qualified dentist, as determined by the county coroner or county medical examiner, carry out a dental examination of the body or human remains. If the county coroner or county medical examiner with the aid of the dental examination and other identifying findings is still unable to establish the identity of the body or human remains, he or she shall prepare and forward such dental examination records within thirty days of the date the body or human remains were found to the dental identification system of the state patrol identification and criminal history section on forms supplied by the state patrol for such purposes.

The dental identification system shall act as a repository or computer center or both with respect to such dental examination records. It shall compare such dental examination records with dental records filed with it and shall determine which scoring probabilities are the highest for the purposes of identification. It shall then submit such information to the county coroner or county medical examiner who prepared and forwarded the dental examination records.

If the body or human remains are still unidentified thirty days after discovery, the county coroner or county medical examiner investigating the death must, as soon as practicable, submit information regarding the body or remains to the national missing and unidentified persons system created by the United States department of justice's national institute of justice. Information submitted to the national missing and unidentified persons system must include, to the extent information is available, a detailed personal description, DNA

information, copies of fingerprints on standardized eight inch by eight inch fingerprint cards or the equivalent digital image, forensic dental examination records, and other identifying data, including date and place of death. If the identity of the body or human remains is later established, the county coroner or county medical examiner must notify the national missing and unidentified persons system within forty-eight hours.

NEW SECTION. Sec. 4. A new section is added to chapter 36.28A RCW to read as follows:

When funded, the Washington association of sheriffs and police chiefs must regularly transmit information contained within the statewide missing persons web site created pursuant to RCW 36.28A.110 to the national missing and unidentified persons system created by the United States department of justice's national institute of justice.

NEW SECTION. Sec. 5. This act may be known and cited as Cody's law.

Passed by the House February 18, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 46

[Engrossed House Bill 2819]

CERTAIN PUMPED STORAGE PROJECTS--STATEWIDE SIGNIFICANCE

AN ACT Relating to designating pumped storage projects located in a county bordering the Columbia river utilizing statutorily authorized water rights to be projects of statewide significance; amending RCW 43.157.010 and 43.157.020; 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 Washington is a national leader in the transition to one hundred percent clean electricity, resulting in substantial reductions in the emissions of greenhouse gases. In 2012, the legislature authorized certain water rights to be used to enable a pumped storage project, codified as RCW 54.16.410. As more variable renewable energy facilities come online to facilitate the transition to our clean energy future, additional renewable energy storage facilities may be used in place of greenhouse gas emitting generation to integrate variable renewable energy. Expediting beneficial use of those authorized water rights for a pumped storage project will enable investment of more than one billion dollars in, and provide economic development to, a rural county, and facilitate construction and operation of additional renewable energy throughout the state and the west.

(2) The legislature further finds that certain studies indicate a resource adequacy shortfall on the region's electric grid by 2025 and it is in the interest of the state to expedite pump storage projects that will address this shortfall.

Sec. 2. RCW 43.157.010 and 2017 c 288 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter and RCW 28A.525.166, 43.21A.350, and 90.58.100, unless the context requires otherwise:

(1) "Applicant" means a person applying to the department for designation of a development project as a project of statewide significance.

(2) "Aviation biofuels production facility" means a facility primarily for the processing of nonfossil biogenic feedstocks to produce aviation fuels that meet the fuel quality technical standards of the American society for testing materials for aviation fuels and coproducts.

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

(4) "Manufacturing" shall have the meaning assigned it in RCW 82.62.010.

(5)(a) "Project of statewide significance" means:

(i) A border crossing project that involves both private and public investments carried out in conjunction with adjacent states or provinces;

(ii) A development project that will provide a net environmental benefit;

(iii) A development project in furtherance of the commercialization of innovations;

(iv) A private industrial development with private capital investment in manufacturing or research and development;

(v) An aviation biofuels production facility; ~~((or))~~

(vi) A pumped storage project using water rights approved by the legislature for that purpose; or

(vii) A project designated by the legislature and codified under this chapter.

(b) To qualify for designation under RCW 43.157.030 as a project of statewide significance:

(i) The project must be completed after January 1, 2009;

(ii) The applicant must submit an application to the department for designation as a project of statewide significance to the department of commerce; and

(iii) Except for an aviation biofuels production facility, the project must have:

(A) In counties with a population less than or equal to twenty thousand, a capital investment of five million dollars;

(B) In counties with a population greater than twenty thousand but no more than fifty thousand, a capital investment of ten million dollars;

(C) In counties with a population greater than fifty thousand but no more than one hundred thousand, a capital investment of fifteen million dollars;

(D) In counties with a population greater than one hundred thousand but no more than two hundred thousand, a capital investment of twenty million dollars;

(E) In counties with a population greater than two hundred thousand but no more than four hundred thousand, a capital investment of thirty million dollars;

(F) In counties with a population greater than four hundred thousand but no more than one million, a capital investment of forty million dollars;

(G) In counties with a population greater than one million, a capital investment of fifty million dollars;

(H) In rural counties as defined by RCW 82.14.370, projected full-time employment positions after completion of construction of fifty or greater;

(I) In counties other than rural counties as defined by RCW 82.14.370, projected full-time employment positions after completion of construction of one hundred or greater; or

(J) Been qualified by the director of the department as a project of statewide significance either because:

(I) The economic circumstances of the county merit the additional assistance such designation will bring;

(II) The impact on a region due to the size and complexity of the project merits such designation;

(III) The project resulted from or is in furtherance of innovation activities at a public research institution in the state or is in or resulted from innovation activities within an innovation partnership zone; or

(IV) The project will provide a net environmental benefit as evidenced by plans for design and construction under green building standards or for the creation of renewable energy technology or components or under other environmental criteria established by the director in consultation with the director of the department of ecology.

A project may be qualified under this subsection (5)(b)(iii)(J) only after consultation on the availability of staff resources of the office of regulatory assistance.

(6) "Research and development" shall have the meaning assigned it in RCW 82.62.010.

Sec. 3. RCW 43.157.020 and 2009 c 421 s 3 are each amended to read as follows:

Counties and cities with development projects designated as projects of statewide significance within their jurisdictions shall enter into an agreement with the office of regulatory assistance and the project managers of projects of statewide significance for expediting the completion of projects of statewide significance. The agreement shall require:

(1) Expedited permit processing for the design and construction of the project;

(2) Expedited environmental review processing;

(3) Expedited processing of requests for street, right-of-way, or easement vacations necessary for the construction of the project;

(4) Participation of local officials on the team assembled under the requirements of RCW 43.157.030(~~((2))~~) (3)(b); (~~and~~)

(5) A plan for consultation with affected tribes; and

(6) Such other actions or items as are deemed necessary by the office of regulatory assistance for the design and construction of the project.

Passed by the House February 18, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 47

[House Bill 2833]

BOARD OF ENGINEERS AND LAND SURVEYORS--VARIOUS PROVISIONS

AN ACT Relating to the board of engineers and land surveyors' appointment of its director and agreement with the department of licensing; and amending RCW 18.43.035 and 18.43.200.

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

Sec. 1. RCW 18.43.035 and 2019 c 442 s 19 are each amended to read as follows:

(1) The board may adopt and amend bylaws establishing its organization and method of operation, including but not limited to meetings, maintenance of books and records, publication of reports, code of ethics, and rosters, and adoption and use of a seal.

(2) Four members of the board shall constitute a quorum for the conduct of any business of the board.

(3) The ~~((governor))~~ board shall appoint ~~((an executive))~~ its director ~~((of the board. The executive director))~~, who must hold a valid Washington license as a professional engineer or professional land surveyor.

(4) The board may employ such persons as are necessary to carry out its duties under this chapter.

(5) It may adopt rules reasonably necessary to administer the provisions of this chapter. The board shall submit to the governor periodic reports as may be required. A roster, showing the names and places of business of all registered professional engineers and land surveyors may be published for distribution, upon request, to professional engineers and land surveyors registered under this chapter and to the public.

Sec. 2. RCW 18.43.200 and 2019 c 442 s 23 are each amended to read as follows:

The department of licensing, through an interagency agreement with the board, must provide specified ~~((administrative staff support and associated))~~ technical services~~((materials, and equipment))~~ to the board. The initial interagency agreement must be for a term of three years and may be renewed by mutual agreement between the department of licensing and the board.

Passed by the House February 19, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 48

[House Bill 2837]

STATE HISTORICAL SOCIETIES--POWERS

AN ACT Relating to expanding powers granted to state historical societies; and amending RCW 27.34.070.

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

Sec. 1. RCW 27.34.070 and 2005 c 333 s 14 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 strengthen cultural and historical organizations statewide by providing grants at the discretion of the society in support of organizational capacity building, public programming, educational programming, outreach, collections management, and exhibitions as funding allows.

(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.

(3) Each historical society is authorized to adopt rules under chapter 34.05 RCW to carry out the policies and purposes of this section.

Passed by the House February 19, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 49

[House Bill 2853]

CHARTER SCHOOL COMMISSION--VARIOUS PROVISIONS

AN ACT Relating to promoting the effective and efficient administration of the Washington state charter school commission; amending RCW 28A.710.050, 28A.710.070, 28A.710.250, and 28A.710.160; and repealing RCW 28A.710.900.

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

Sec. 1. RCW 28A.710.050 and 2016 c 241 s 105 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, a charter school may not limit admission on any basis other than age group, grade level, or enrollment capacity. A charter school is open to any student regardless of his or her location of residence.

(2) A charter school may not charge tuition, but may charge fees for participation in optional extracurricular events and activities in the same manner and to the same extent as do other public schools.

(3) If capacity is insufficient to enroll all students who apply to a charter school, the charter school must grant an enrollment preference to siblings of enrolled students, with any remaining enrollments allocated through a lottery. A charter school may offer, pursuant to an admissions policy approved by the (~~commission~~) authorizer, a weighted enrollment preference for at-risk students or to children of full-time employees of the school if the employees' children reside within the state.

(4) The enrollment capacity of a charter school must be determined annually by the charter school board in consultation with the (~~charter~~) authorizer and with consideration of the charter school's ability to facilitate the academic success of its students, achieve the objectives specified in the charter contract, and assure that its student enrollment does not exceed the capacity of its facility. An authorizer may not restrict the number of students a charter school may enroll.

(5) Nothing in this section prevents formation of a charter school whose mission is to offer a specialized learning environment and services for particular groups of students, such as at-risk students, students with disabilities, or students who pose such severe disciplinary problems that they warrant a specific educational program. Nothing in this section prevents formation of a charter school organized around a special emphasis, theme, or concept as stated in the school's application and charter contract.

Sec. 2. RCW 28A.710.070 and 2016 c 241 s 107 are each amended to read as follows:

(1) The Washington state charter school commission is established as an independent state agency whose mission is to authorize high quality charter public schools throughout the state, especially schools that are designed to expand opportunities for at-risk students, and to ensure the highest standards of accountability and oversight for these schools.

(2) The commission shall, through its management, supervision, and enforcement of the charter contracts and pursuant to applicable law, administer the charter schools it authorizes in the same manner as a school district board of directors administers other schools.

(3)(a) The commission shall consist of:

(i) Nine appointed members;

(ii) The superintendent of public instruction or the superintendent's designee; and

(iii) The chair of the state board of education or the chair's designee.

(b) Appointments to the commission shall be as follows: Three members shall be appointed by the governor; three members shall be appointed by the senate, with two members appointed by the leader of the largest caucus of the

senate and one member appointed by the leader of the minority caucus of the senate; and three members shall be appointed by the house of representatives, with two members appointed by the speaker of the house of representatives and one member appointed by the leader of the minority caucus of the house of representatives. The appointing authorities shall assure diversity among commission members, including representation from various geographic areas of the state and shall assure that at least one member is the parent of a Washington public school student.

(4) Members appointed to the commission shall collectively possess strong experience and expertise in public and nonprofit governance; management and finance; public school leadership, assessment, curriculum, and instruction; and public education law. All appointed members shall have demonstrated an understanding of and commitment to charter schooling as a strategy for strengthening public education.

(5) Appointed members shall serve four-year, staggered terms. The initial appointments from each of the appointing authorities must consist of one member appointed to a one-year term, one member appointed to a two-year term, and one member appointed to a three-year term, all of whom thereafter may be reappointed for a four-year term. No appointed member may serve more than two consecutive terms. Initial appointments must be made by July 1, 2016.

(6) Whenever a vacancy on the commission exists among its appointed membership, the original appointing authority must appoint a member for the remaining portion of the term within no more than thirty days.

(7) Commission members shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

(8) The commission may hire an executive director and may employ staff as necessary to carry out its duties under this chapter. The commission may delegate to the executive director the duties as necessary to effectively and efficiently execute the business of the commission, including the authority to employ necessary staff. In accordance with RCW 41.06.070, the executive director and the executive director's confidential secretary are exempt from the provisions of chapter 41.06 RCW.

(9) The commission shall reside within the office of the superintendent of public instruction for administrative purposes only.

~~((9))~~ (10) RCW 28A.710.090 and 28A.710.120 do not apply to the commission.

Sec. 3. RCW 28A.710.250 and 2016 c 241 s 125 are each amended to read as follows:

(1) By ~~((December))~~ March 1st of each year beginning in the first year after there have been charter schools operating for a full school year, the state board of education, in collaboration with the commission, must issue a report on the performance of the state's charter schools during the preceding school year to the governor, the legislature, and the public at large.

(2) The annual report must be based on the reports submitted by each authorizer as well as any additional relevant data compiled by the state board of education. The report must include a comparison of the performance of charter school students with the performance of academically, ethnically, and economically comparable groups of students in other public schools. In addition, the annual report must include the state board of education's assessment of the

successes, challenges, and areas for improvement in meeting the purposes of this chapter, including the board's assessment of the sufficiency of funding for charter schools, the efficacy of the formula for authorizer funding, and any suggested changes in state law or policy necessary to strengthen the state's charter schools.

(3) Together with the issuance of the annual report following the fifth year after there have been charter schools operating for a full school year, the state board of education, in collaboration with the commission, shall submit a recommendation regarding whether or not the legislature should authorize the establishment of additional charter public schools.

Sec. 4. RCW 28A.710.160 and 2016 c 241 s 116 are each amended to read as follows:

(1) The purposes of the charter application submitted under RCW 28A.710.130 are to present the proposed charter school's academic and operational vision and plans, and to demonstrate and provide the authorizer with a clear basis for evaluating the applicant's capacities to execute the proposed vision and plans. An approved charter application does not serve as the school's charter contract.

(2) Within ninety days of approval of a charter application, the authorizer and the governing board of the approved charter school must execute a charter contract. The contract must establish the terms by which the charter school agrees to provide educational services that, at a minimum, meet basic education standards, in return for a distribution of public funds that will be used for the purposes established in the contract and in this and other applicable statutes. The charter contract must clearly set forth the academic and operational performance expectations and measures by which the charter school will be evaluated and the administrative relationship between the authorizer and charter school, including each party's rights and duties. The performance expectations and measures set forth in the charter contract must include, but need not be limited to, applicable federal and state accountability requirements. The performance provisions may be refined or amended by mutual agreement after the charter school is operating and has collected baseline achievement data for its enrolled students.

(3) If the charter school is authorized by a school district board of directors, the charter contract must be signed by the president of the applicable school district board of directors and the president of the charter school board. If the charter school is authorized by the commission, the charter contract must be signed by the chair of the commission and the president of the charter school board. Within ten days of executing a charter contract, the authorizer must submit to the state board of education written notification of the charter contract execution, including a copy of the executed charter contract and any attachments.

(4) A charter contract may govern one or more charter schools to the extent approved by the authorizer. A single charter school board may hold one or more charter contracts. However, each charter school that is part of a charter contract must be separate and distinct from any others and, for purposes of calculating the maximum number of charter schools that may be established under this chapter, each charter school must be considered a single charter school regardless of how many charter schools are governed under a particular charter contract.

(5) An initial charter contract must be granted for a term of five operating years. The contract term must commence on the charter school's first day of operation. An approved charter school may delay its opening for one school year in order to plan and prepare for the school's opening. If the school requires an opening delay of more than one school year, the school must request an extension from its authorizer. The authorizer may grant or deny the contract extension depending on the school's circumstances.

(6) Authorizers shall establish reasonable preopening requirements or conditions to monitor the start-up progress of newly approved charter schools, ensure that they are prepared to open smoothly on the date agreed, and ensure that each school meets all building, health, safety, insurance, and other legal requirements for school opening.

(7) No charter school may commence operations without a charter contract executed in accordance with this section.

~~((8) In accordance with RCW 28A.710.900(3):~~

~~(a) The state board of education must take reasonable and necessary steps to provide parties to contracts entered into under or in accordance with chapter 2, Laws of 2013 that were in effect or that had been executed on or before December 1, 2015, with an opportunity to execute new contracts with the same terms and duration or substantially the same terms and duration as were in effect on December 1, 2015; and~~

~~(b) Each authorizer must take reasonable and necessary steps to provide parties to contracts entered into under or in accordance with chapter 2, Laws of 2013 that were in effect or that had been executed on or before December 1, 2015, with an opportunity to execute new contracts with the same terms and duration or substantially the same terms and duration as were in effect on December 1, 2015.~~

~~(9) Contracts executed pursuant to subsection (8) of this section do not count against the annual cap established in RCW 28A.710.150(1).~~

~~(10) For purposes of this section, "substantially the same terms and duration" includes contract modifications necessary to comply with the provisions of this chapter or other applicable law.))~~

NEW SECTION, Sec. 5. RCW 28A.710.900 (Application of chapter 241, Laws of 2016—Contracts for charter schools established before April 3, 2016) and 2016 c 241 s 140 are each repealed.

Passed by the House February 18, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 50

[House Bill 2860]

PLANE COORDINATE SYSTEM--VARIOUS PROVISIONS

AN ACT Relating to the Washington plane coordinate system; amending RCW 58.20.140, 58.20.160, 58.20.180, 58.20.200, 58.20.210, and 58.20.220; adding new sections to chapter 58.20 RCW; and repealing RCW 58.20.110, 58.20.120, 58.20.130, 58.20.150, 58.20.170, and 58.20.190.

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

NEW SECTION. Sec. 1. A new section is added to chapter 58.20 RCW to read as follows:

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

(1) "Metadata" means data that describes other data. For the purposes of this chapter, metadata means geodetic reference system utilized, applicable epoch, statement of relative accuracy, and date of observation at a minimum. Additional metadata is encouraged if it adds value.

(2) "NGS" means the national ocean service's national geodetic survey of the national oceanic and atmospheric administration, United States department of commerce, or its successor.

(3) "NSRS" means the national spatial reference system or its successor.

(4) "WPCS" means the Washington plane coordinate system, the system of plane coordinates under this chapter that is identical to the state plane coordinate system as defined for the state of Washington by NGS.

NEW SECTION. Sec. 2. A new section is added to chapter 58.20 RCW to read as follows:

The most recent version of the state plane coordinate system for the state of Washington, which has been established by NGS, based on the NSRS, for defining and stating the positions or locations of points on the surface of the earth within the state of Washington must be known as the "Washington plane coordinate system."

Sec. 3. RCW 58.20.140 and 1989 c 54 s 12 are each amended to read as follows:

~~((As established for use in the north zone, the))~~ The Washington plane coordinate system ((of 1983)) shall be named, and in any land description in which it is used it shall be designated, the "Washington plane coordinate system ((of 1983)), ((north zone)) and the zone used must be specified.

~~((As established for use in the south zone, the Washington coordinate system of 1983 shall be named, and in any land description in which it is used it shall be designated, the "Washington coordinate system of 1983, south zone.))~~

NEW SECTION. Sec. 4. A new section is added to chapter 58.20 RCW to read as follows:

(1) The plane coordinates of a point on the earth's surface, to be used in expressing the position or location of the point in the appropriate zone of the WPCS, consist of two distances, expressed in feet and decimals of a foot or meters and decimals of a meter, along with the metadata of the observations used to determine the coordinates. One of these distances, to be known as the "east x-coordinate," must give the distance east of the Y axis; the other, to be known as the "north y-coordinate," must give the distance north of the X axis. The Y axis of any zone must be parallel with the central meridian of that zone. The X axis of any zone must be at right angles to the central meridian of that zone.

(2) Height is the coordinate value of the vertical elements of the NSRS expressed as feet or meters and identified as ellipsoid height or orthometric height.

Sec. 5. RCW 58.20.160 and 1989 c 54 s 14 are each amended to read as follows:

When any tract of land to be defined by a single description extends from one ~~((into the other of the))~~ coordinate ~~((zones under RCW 58.20.130))~~ zone into other zones, the positions of all points on its boundaries ~~((may))~~ must be referred to ~~((either))~~ only one of the zones, the zone which is used being specifically named in the description along with the metadata of the observations.

NEW SECTION. Sec. 6. A new section is added to chapter 58.20 RCW to read as follows:

The official geodetic datums to which geodetic coordinates including, but not limited to, latitude, longitude, ellipsoid height, orthometric height, or dynamic height are referenced within the state of Washington must be as defined for the NSRS.

Sec. 7. RCW 58.20.180 and 1989 c 54 s 16 are each amended to read as follows:

Coordinates based on the Washington plane coordinate system ~~((of 1983))~~, purporting to define the position of a point on a land boundary, may be presented to be recorded in any public land records or deed records ~~((if the survey method used for the determination of these coordinates is established in conformity with standards and specifications prescribed by the interagency federal geodetic control committee, or its successor)). ((These surveys shall be connected to monumented control stations that are adjusted to and published in the national network of geodetic control by the national geodetic survey and such connected horizontal control stations))~~ The method and source for establishing coordinates shall be described in the land or deed record. ((Standards and specifications of the committee in force on the date of the survey shall apply.)) In all instances where reference has been made to such coordinates in land surveys or deeds, the ~~((scale and sea level))~~ combined factors shall be stated for the survey lines used in computing ground distances and areas, along with the metadata of the observations.

~~((The position of the Washington coordinate system of 1983 shall be marked on the ground by horizontal geodetic control stations which have been established in conformity with the survey standards adopted by the committee and whose geodetic positions have been rigorously adjusted on the North American datum of 1983, and whose coordinates have been computed and published on the system defined in RCW 58.20.110 through 58.20.220 and 58.20.901. Any such control station may be used to establish a survey connection with the Washington coordinate system of 1983.))~~

NEW SECTION. Sec. 8. A new section is added to chapter 58.20 RCW to read as follows:

When the values are expressed in feet, one foot equals 0.3048 meters, must be used as the standard foot for WPCS.

Sec. 9. RCW 58.20.200 and 1989 c 54 s 18 are each amended to read as follows:

The use of the term "Washington plane coordinate system ~~((of 1983))~~" on any map, report of survey, or other document, shall be limited to coordinates based on the Washington plane coordinate system ~~((of 1983))~~ as defined in this chapter.

Sec. 10. RCW 58.20.210 and 1989 c 54 s 19 are each amended to read as follows:

Whenever coordinates based on the Washington plane coordinate system (~~(of 1983)~~) are used to describe any tract of land which in the same document is also described by reference to any subdivision, line or corner of the United States public land surveys, the description by coordinates shall be construed as supplemental to the basic description of such subdivision, line, or corner contained in the official plats and field notes filed of record, and in the event of any conflict the description by reference to the subdivision, line, or corner of the United States public land surveys shall prevail over the description by coordinates.

Sec. 11. RCW 58.20.220 and 1989 c 54 s 20 are each amended to read as follows:

Nothing contained in this chapter shall require any purchaser or mortgagee to rely on a description, any part of which depends exclusively upon the Washington plane coordinate system (~~(of 1927 or 1983)~~).

NEW SECTION. **Sec. 12.** A new section is added to chapter 58.20 RCW to read as follows:

The provisions of this chapter may not be construed to prohibit the appropriate use of other datums, other geodetic reference networks or systems, or other plane coordinate systems. Any other such datums, networks, or systems used must comply fully with the information requirements for the Washington plane coordinate system. This includes, but is not limited to: The source of the datum, network, or system; metadata of the observations; factor used to convert from meters to feet; and combined factors applied to land boundary lines used in land surveys or deeds to compute ground distances or areas.

NEW SECTION. **Sec. 13.** The following acts or parts of acts are each repealed:

- (1) RCW 58.20.110 (Definitions) and 1989 c 54 s 9;
- (2) RCW 58.20.120 (System designation—Permitted uses) and 1989 c 54 s 10;
- (3) RCW 58.20.130 (Plane coordinates adopted—Zones) and 1989 c 54 s 11;
- (4) RCW 58.20.150 (Designation of coordinates—"N" and "E.") and 1989 c 54 s 13;
- (5) RCW 58.20.170 (Zones—Technical definitions) and 1989 c 54 s 15; and
- (6) RCW 58.20.190 (Conversion of coordinates—Metric) and 1989 c 54 s 17.

Passed by the House February 18, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 51

[Substitute House Bill 2873]

FAMILY RECONCILIATION SERVICES--VARIOUS PROVISIONS

AN ACT Relating to families in conflict; amending RCW 13.32A.030, 13.32A.040, and 13.32A.150; and adding a new section to chapter 13.32A RCW.

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

Sec. 1. RCW 13.32A.030 and 2017 3rd sp.s. c 6 s 417 are each amended to read as follows:

As used in this chapter the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances that indicate the child's health, welfare, and safety is harmed, excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Administrator" means the individual who has the daily administrative responsibility of a crisis residential center, or his or her designee.

(3) "At-risk youth" means a juvenile:

(a) Who is absent from home for at least seventy-two consecutive hours without consent of his or her parent;

(b) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any other person; or

(c) Who has a substance abuse problem for which there are no pending criminal charges related to the substance abuse.

(4) "Child," "juvenile," "youth," and "minor" mean any unemancipated individual who is under the chronological age of eighteen years.

(5) "Child in need of services" means a juvenile:

(a) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any other person;

(b) Who has been reported to law enforcement as absent without consent for at least twenty-four consecutive hours on two or more separate occasions from the home of either parent, a crisis residential center, an out-of-home placement, or a court-ordered placement; and

(i) Has exhibited a serious substance abuse problem; or

(ii) Has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person;

(c)(i) Who is in need of: (A) Necessary services, including food, shelter, health care, clothing, or education; or (B) services designed to maintain or reunite the family;

(ii) Who lacks access to, or has declined to use, these services; and

(iii) Whose parents have evidenced continuing but unsuccessful efforts to maintain the family structure or are unable or unwilling to continue efforts to maintain the family structure; or

(d) Who is a "sexually exploited child."

(6) "Child in need of services petition" means a petition filed in juvenile court by a parent, child, or the department seeking adjudication of placement of the child.

(7) "Crisis residential center" means a secure or semi-secure facility established pursuant to chapter 74.13 RCW.

(8) "Custodian" means the person or entity that has the legal right to custody of the child.

(9) "Department" means the department of children, youth, and families.

(10) "Extended family member" means an adult who is a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child.

(11) "Guardian" means the person or agency that (a) has been appointed as the guardian of a child in a legal proceeding other than a proceeding under chapter 13.34 RCW, and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under chapter 13.34 RCW.

(12) "Multidisciplinary team" means a group formed to provide assistance and support to a child who is an at-risk youth or a child in need of services and his or her parent. The team must include the parent, a department caseworker, a local government representative when authorized by the local government, and when appropriate, members from the mental health and substance abuse disciplines. The team may also include, but is not limited to, the following persons: Educators, law enforcement personnel, probation officers, employers, church persons, tribal members, therapists, medical personnel, social service providers, placement providers, and extended family members. The team members must be volunteers who do not receive compensation while acting in a capacity as a team member, unless the member's employer chooses to provide compensation or the member is a state employee.

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

(14) "Parent" means the parent or parents who have the legal right to custody of the child. "Parent" includes custodian or guardian.

(15) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(16) "Semi-secure facility" means any facility, including but not limited to crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth placed there will not run away. Pursuant to rules established by the department, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center.

(17) "Sexually exploited child" means any person under the age of eighteen who is a victim of the crime of commercial sex abuse of a minor under RCW

9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102.

(18) "Staff secure facility" means a structured group care facility licensed under rules adopted by the department with a ratio of at least one adult staff member to every two children.

(19) "Temporary out-of-home placement" means an out-of-home placement of not more than fourteen days ordered by the court at a fact-finding hearing on a child in need of services petition.

(20) "Family reconciliation services" means services provided by culturally relevant, trauma-informed community-based entities under contract with the department, or provided directly by the department, designed to assess and stabilize the family with the goal of resolving crisis and building supports, skills, and connection to community networks and resources including, but not limited to:

(a) Referrals for services for suicide prevention, psychiatric or other medical care, psychological care, behavioral health treatment, legal assistance, or educational assistance;

(b) Parent training;

(c) Assistance with conflict management or dispute resolution; or

(d) Other social services, as appropriate to meet the needs of the child and the family.

Sec. 2. RCW 13.32A.040 and 2000 c 123 s 3 are each amended to read as follows:

((Families)) (1) The department, or a designated contractor of the department, shall offer family reconciliation services to families or youth who are ~~((in))~~ experiencing conflict ~~((or))~~ and who ~~((are experiencing problems with at-risk youth or a child who))~~ may be in need of services ~~((may request family reconciliation services from the department))~~ upon request from the family or youth and subject to the availability of funding appropriated for this specific purpose.

(2) The department may involve a local multidisciplinary team in its response in determining the services to be provided and in providing those services. Such services shall be provided to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the child or family and to maintain families intact wherever possible. ~~((Family reconciliation services shall be designed to develop skills and supports within families to resolve problems related to at-risk youth, children in need of services, or family conflicts. These services may include but are not limited to referral to services for suicide prevention, psychiatric or other medical care, or psychological, mental health, drug or alcohol treatment, welfare, legal, educational, or other social services, as appropriate to the needs of the child and the family, and training in parenting, conflict management, and dispute resolution skills.))~~

Sec. 3. RCW 13.32A.150 and 2019 c 312 s 10 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the juvenile court shall not accept the filing of a child in need of services petition by the child or the parents

or the filing of an at-risk youth petition by the parent, unless verification is provided that the department, or a community-based entity under contract with the department, has completed a family assessment. The family assessment shall involve the multidisciplinary team if one exists. The family assessment or plan of services developed by the multidisciplinary team shall be aimed at family reconciliation, reunification, and avoidance of the out-of-home placement of the child.

(2) A child or a child's parent may file with the juvenile court a child in need of services petition to approve an out-of-home placement for the child before completion of a family assessment. The department shall, when requested, assist either a parent or child in the filing of the petition. The petition must be filed in the county where the parent resides. The petition shall allege that the child is a child in need of services and shall ask only that the placement of a child outside the home of his or her parent be approved. The filing of a petition to approve the placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent, and confers upon the court a special jurisdiction to approve or disapprove an out-of-home placement under this chapter.

(3) A petition may not be filed if the child is the subject of a proceeding under chapter 13.34 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 13.32A RCW to read as follows:

(1) Beginning December 1, 2020, and annually thereafter, in compliance with RCW 43.01.036, the department shall make data available on the use of family reconciliation services which includes:

- (a) The number of requests for family reconciliation services;
- (b) The number of referrals made for family reconciliation services;
- (c) The demographic profile of families and youth accessing family reconciliation services including race, ethnicity, housing status, child welfare history, existence of an individualized education program, eligibility for services under 29 U.S.C. Sec. 701, or eligibility for other disability-related services;
- (d) The nature of the family conflict;
- (e) The type and length of the family reconciliation services delivered;
- (f) Family outcomes after receiving family reconciliation services; and
- (g) Recommendations for improving family reconciliation services.

(2) If the department cannot provide the information specified under subsection (1) of this section, the department shall identify steps necessary to obtain and make available the information required under subsection (1) of this section.

Passed by the House February 13, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

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CHAPTER 52

[Engrossed Senate Bill 5165]

CITIZENSHIP AND IMMIGRATION STATUS--DISCRIMINATION

AN ACT Relating to discrimination based on citizenship or immigration status; amending RCW 49.60.010, 49.60.020, 49.60.030, 49.60.120, 49.60.130, 49.60.175, 49.60.176, 49.60.178, 49.60.180, 49.60.190, 49.60.200, 49.60.215, 49.60.222, 49.60.223, 49.60.224, and 49.60.225; and adding a new section to chapter 49.60 RCW.

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

Sec. 1. RCW 49.60.010 and 2007 c 187 s 1 are each amended to read as follows:

This chapter shall be known as the "law against discrimination." It is an exercise of the police power of the state for the protection of the public welfare, health, and peace of the people of this state, and in fulfillment of the provisions of the Constitution of this state concerning civil rights. The legislature hereby finds and declares that practices of discrimination against any of its inhabitants because of race, creed, color, national origin, citizenship or immigration status, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability are a matter of state concern, that such discrimination threatens not only the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state. A state agency is herein created with powers with respect to elimination and prevention of discrimination in employment, in credit and insurance transactions, in places of public resort, accommodation, or amusement, and in real property transactions because of race, creed, color, national origin, citizenship or immigration status, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

Sec. 2. RCW 49.60.020 and 2007 c 187 s 2 are each amended to read as follows:

The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the provisions of any other law of this state relating to discrimination because of race, color, creed, national origin, citizenship or immigration status, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability, other than a law which purports to require or permit doing any act which is an unfair practice under this chapter. However, to the extent that distinction or differential treatment on the basis of citizenship or immigration status is authorized by federal or state law, regulation, or government contract, it is not an unfair practice. Nor shall anything herein contained be construed to deny the right to any person to institute any action or pursue any civil or criminal remedy based upon an alleged violation of his or her civil rights. This chapter shall not be construed to endorse any specific belief, practice, behavior, or

orientation. Inclusion of sexual orientation in this chapter shall not be construed to modify or supersede state law relating to marriage.

NEW SECTION. Sec. 3. A new section is added to chapter 49.60 RCW to read as follows:

It is not an unfair practice when a distinction or differential treatment on the basis of citizenship or immigration status is authorized by federal or state law, regulation, rule, or government contract.

Sec. 4. RCW 49.60.030 and 2009 c 164 s 1 are each amended to read as follows:

(1) The right to be free from discrimination because of race, creed, color, national origin, citizenship or immigration status, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability is recognized as and declared to be a civil right. This right shall include, but not be limited to:

(a) The right to obtain and hold employment without discrimination;

(b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement;

(c) The right to engage in real estate transactions without discrimination, including discrimination against families with children;

(d) The right to engage in credit transactions without discrimination;

(e) The right to engage in insurance transactions or transactions with health maintenance organizations without discrimination: PROVIDED, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an unfair practice for the purposes of this subparagraph;

(f) The right to engage in commerce free from any discriminatory boycotts or blacklists. Discriminatory boycotts or blacklists for purposes of this section shall be defined as the formation or execution of any express or implied agreement, understanding, policy or contractual arrangement for economic benefit between any persons which is not specifically authorized by the laws of the United States and which is required or imposed, either directly or indirectly, overtly or covertly, by a foreign government or foreign person in order to restrict, condition, prohibit, or interfere with or in order to exclude any person or persons from any business relationship on the basis of race, color, creed, religion, sex, honorably discharged veteran or military status, sexual orientation, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, or national origin, citizenship or immigration status, or lawful business relationship: PROVIDED HOWEVER, That nothing herein contained shall prohibit the use of boycotts as authorized by law pertaining to labor disputes and unfair labor practices; and

(g) The right of a mother to breastfeed her child in any place of public resort, accommodation, assemblage, or amusement.

(2) Any person deeming himself or herself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoin further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit including reasonable attorneys' fees or any other appropriate remedy authorized by this chapter or the United States Civil

Rights Act of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988 (42 U.S.C. Sec. 3601 et seq.).

(3) Except for any unfair practice committed by an employer against an employee or a prospective employee, or any unfair practice in a real estate transaction which is the basis for relief specified in the amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any unfair practice prohibited by this chapter which is committed in the course of trade or commerce as defined in the Consumer Protection Act, chapter 19.86 RCW, is, for the purpose of applying that chapter, a matter affecting the public interest, is not reasonable in relation to the development and preservation of business, and is an unfair or deceptive act in trade or commerce.

Sec. 5. RCW 49.60.120 and 2007 c 187 s 5 are each amended to read as follows:

The commission shall have the functions, powers, and duties:

(1) To appoint an executive director and chief examiner, and such investigators, examiners, clerks, and other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(2) To obtain upon request and utilize the services of all governmental departments and agencies.

(3) To adopt, amend, and rescind suitable rules to carry out the provisions of this chapter, and the policies and practices of the commission in connection therewith.

(4) To receive, impartially investigate, and pass upon complaints alleging unfair practices as defined in this chapter.

(5) To issue such publications and results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of sex, sexual orientation, race, creed, color, national origin, citizenship or immigration status, marital status, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability.

(6) To make such technical studies as are appropriate to effectuate the purposes and policies of this chapter and to publish and distribute the reports of such studies.

(7) To cooperate and act jointly or by division of labor with the United States or other states, with other Washington state agencies, commissions, and other government entities, and with political subdivisions of the state of Washington and their respective human rights agencies to carry out the purposes of this chapter. However, the powers which may be exercised by the commission under this subsection permit investigations and complaint dispositions only if the investigations are designed to reveal, or the complaint deals only with, allegations which, if proven, would constitute unfair practices under this chapter. The commission may perform such services for these agencies and be reimbursed therefor.

(8) To foster good relations between minority and majority population groups of the state through seminars, conferences, educational programs, and other intergroup relations activities.

Sec. 6. RCW 49.60.130 and 2007 c 187 s 6 are each amended to read as follows:

The commission has power to create such advisory agencies and conciliation councils, local, regional, or statewide, as in its judgment will aid in effectuating the purposes of this chapter. The commission may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of sex, race, creed, color, national origin, citizenship or immigration status, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability; to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population of the state, and to make recommendations to the commission for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education which the commission may recommend to the appropriate state agency.

Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay, but with reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, and the commission may make provision for technical and clerical assistance to such agencies and councils and for the expenses of such assistance. The commission may use organizations specifically experienced in dealing with questions of discrimination.

Sec. 7. RCW 49.60.175 and 2007 c 187 s 7 are each amended to read as follows:

It shall be an unfair practice to use the sex, race, creed, color, national origin, citizenship or immigration status, marital status, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability of any person, or the use of a trained dog guide or service animal by a person with a disability, concerning an application for credit in any credit transaction to determine the creditworthiness of an applicant.

Sec. 8. RCW 49.60.176 and 2007 c 187 s 8 are each amended to read as follows:

(1) It is an unfair practice for any person whether acting for himself, herself, or another in connection with any credit transaction because of race, creed, color, national origin, citizenship or immigration status, sex, marital status, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability:

- (a) To deny credit to any person;
- (b) To increase the charges or fees for or collateral required to secure any credit extended to any person;
- (c) To restrict the amount or use of credit extended or to impose different terms or conditions with respect to the credit extended to any person or any item or service related thereto;
- (d) To attempt to do any of the unfair practices defined in this section.

(2) Nothing in this section shall prohibit any party to a credit transaction from considering the credit history of any individual applicant.

(3) Further, nothing in this section shall prohibit any party to a credit transaction from considering the application of the community property law to the individual case or from taking reasonable action thereon.

Sec. 9. RCW 49.60.178 and 2006 c 4 s 9 are each amended to read as follows:

It is an unfair practice for any person whether acting for himself, herself, or another in connection with an insurance transaction or transaction with a health maintenance organization to cancel or fail or refuse to issue or renew insurance or a health maintenance agreement to any person because of sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a ~~((disabled))~~ person with disabilities: PROVIDED, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an unfair practice for the purposes of this section. For the purposes of this section, "insurance transaction" is defined in RCW 48.01.060, health maintenance agreement is defined in RCW 48.46.020, and "health maintenance organization" is defined in RCW 48.46.020.

The fact that such unfair practice may also be a violation of chapter 48.30, 48.44, or 48.46 RCW does not constitute a defense to an action brought under this section.

The insurance commissioner, under RCW 48.30.300, and the human rights commission, under chapter 49.60 RCW, shall have concurrent jurisdiction under this section and shall enter into a working agreement as to procedure to be followed in complaints under this section.

Sec. 10. RCW 49.60.180 and 2007 c 187 s 9 are each amended to read as follows:

It is an unfair practice for any employer:

(1) To refuse to hire any person because of age, sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, unless based upon a bona fide occupational qualification: PROVIDED, That the prohibition against discrimination because of such disability shall not apply if the particular disability prevents the proper performance of the particular worker involved: PROVIDED, That this section shall not be construed to require an employer to establish employment goals or quotas based on sexual orientation.

(2) To discharge or bar any person from employment because of age, sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

(3) To discriminate against any person in compensation or in other terms or conditions of employment because of age, sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or

physical disability or the use of a trained dog guide or service animal by a person with a disability: PROVIDED, That it shall not be an unfair practice for an employer to segregate washrooms or locker facilities on the basis of sex, or to base other terms and conditions of employment on the sex of employees where the commission by regulation or ruling in a particular instance has found the employment practice to be appropriate for the practical realization of equality of opportunity between the sexes.

(4) To print, or circulate, or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification, or discrimination as to age, sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, or any intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification: PROVIDED, Nothing contained herein shall prohibit advertising in a foreign language.

Sec. 11. RCW 49.60.190 and 2007 c 187 s 10 are each amended to read as follows:

It is an unfair practice for any labor union or labor organization:

(1) To deny membership and full membership rights and privileges to any person because of age, sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

(2) To expel from membership any person because of age, sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

(3) To discriminate against any member, employer, employee, or other person to whom a duty of representation is owed because of age, sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

Sec. 12. RCW 49.60.200 and 2007 c 187 s 11 are each amended to read as follows:

It is an unfair practice for any employment agency to fail or refuse to classify properly or refer for employment, or otherwise to discriminate against, an individual because of age, sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, or to print or circulate, or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective

employment, which expresses any limitation, specification or discrimination as to age, sex, race, sexual orientation, creed, color, or national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, or any intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification: PROVIDED, Nothing contained herein shall prohibit advertising in a foreign language.

Sec. 13. RCW 49.60.215 and 2018 c 176 s 3 are each amended to read as follows:

It shall be an unfair practice for any person or the person's agent or employee to commit an act which directly or indirectly results in any distinction, restriction, or discrimination, or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement, except for conditions and limitations established by law and applicable to all persons, regardless of race, creed, color, national origin, citizenship or immigration status, sexual orientation, sex, honorably discharged veteran or military status, status as a mother breastfeeding her child, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability: PROVIDED, That this section shall not be construed to require structural changes, modifications, or additions to make any place accessible to a person with a disability except as otherwise required by law: PROVIDED, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice.

Sec. 14. RCW 49.60.222 and 2007 c 187 s 13 are each amended to read as follows:

(1) It is an unfair practice for any person, whether acting for himself, herself, or another, because of sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, families with children status, honorably discharged veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability:

- (a) To refuse to engage in a real estate transaction with a person;
- (b) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (c) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;
- (d) To refuse to negotiate for a real estate transaction with a person;
- (e) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his or her attention, or to refuse to permit the person to inspect real property;
- (f) To discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling, to any person; or to a person residing in or intending to reside in

that dwelling after it is sold, rented, or made available; or to any person associated with the person buying or renting;

(g) To make, print, circulate, post, or mail, or cause to be so made or published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto;

(h) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith;

(i) To expel a person from occupancy of real property;

(j) To discriminate in the course of negotiating, executing, or financing a real estate transaction whether by mortgage, deed of trust, contract, or other instrument imposing a lien or other security in real property, or in negotiating or executing any item or service related thereto including issuance of title insurance, mortgage insurance, loan guarantee, or other aspect of the transaction. Nothing in this section shall limit the effect of RCW 49.60.176 relating to unfair practices in credit transactions; or

(k) To attempt to do any of the unfair practices defined in this section.

(2) For the purposes of this chapter discrimination based on the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled includes:

(a) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the dwelling, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tear excepted;

(b) To refuse to make reasonable accommodation in rules, policies, practices, or services when such accommodations may be necessary to afford a person with the presence of any sensory, mental, or physical disability and/or the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled equal opportunity to use and enjoy a dwelling; or

(c) To fail to design and construct covered multifamily dwellings and premises in conformance with the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.) and all other applicable laws or regulations pertaining to access by persons with any sensory, mental, or physical disability or use of a trained dog guide or service animal. Whenever the requirements of applicable laws or regulations differ, the requirements which require greater accessibility for persons with any sensory, mental, or physical disability shall govern.

Nothing in (a) or (b) of this subsection shall apply to: (i) A single-family house rented or leased by the owner if the owner does not own or have an interest in the proceeds of the rental or lease of more than three such single-family houses at one time, the rental or lease occurred without the use of a ~~((real estate)) salesperson, or a broker ((or salesperson,))~~ as defined in RCW ~~((18.85.014)) 18.85.011~~, and the rental or lease occurred without the publication, posting, or mailing of any advertisement, sign, or statement in violation of

subsection (1)(g) of this section; or (ii) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the rooms or units as his or her residence.

(3) Notwithstanding any other provision of this chapter, it shall not be an unfair practice or a denial of civil rights for any public or private educational institution to separate the sexes or give preference to or limit use of dormitories, residence halls, or other student housing to persons of one sex or to make distinctions on the basis of marital or families with children status.

(4) Except pursuant to subsection (2)(a) of this section, this section shall not be construed to require structural changes, modifications, or additions to make facilities accessible to a person with a disability except as otherwise required by law. Nothing in this section affects the rights, responsibilities, and remedies of landlords and tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to post and enforce reasonable rules of conduct and safety for all tenants and their guests, provided that chapters 59.18 and 59.20 RCW are only affected to the extent they are inconsistent with the nondiscrimination requirements of this chapter. Nothing in this section limits the applicability of any reasonable federal, state, or local restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(5) Notwithstanding any other provision of this chapter, it shall not be an unfair practice for any public establishment providing for accommodations offered for the full enjoyment of transient guests as defined by RCW 9.91.010(1)(c) to make distinctions on the basis of families with children status. Nothing in this section shall limit the effect of RCW 49.60.215 relating to unfair practices in places of public accommodation.

(6) Nothing in this chapter prohibiting discrimination based on families with children status applies to housing for older persons as defined by the federal fair housing amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as amended by the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995. Nothing in this chapter authorizes requirements for housing for older persons different than the requirements in the federal fair housing amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as amended by the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995.

(7) Nothing in this chapter shall apply to real estate transactions involving the sharing of a dwelling unit, or rental or sublease of a portion of a dwelling unit, when the dwelling unit is to be occupied by the owner or sublesor. For purposes of this section, "dwelling unit" has the same meaning as in RCW 59.18.030.

Sec. 15. RCW 49.60.223 and 2007 c 187 s 14 are each amended to read as follows:

It is an unfair practice for any person, for profit, to induce or attempt to induce any person to sell or rent any real property by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, creed, color, sex, national origin, citizenship or immigration status, sexual orientation, families with children status, honorably discharged veteran or military status, or with any sensory, mental, or physical disability

and/or the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled.

Sec. 16. RCW 49.60.224 and 2007 c 187 s 15 are each amended to read as follows:

(1) Every provision in a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof to individuals of a specified race, creed, color, sex, national origin, citizenship or immigration status, sexual orientation, families with children status, honorably discharged veteran or military status, or with any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled, and every condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, creed, color, sex, national origin, citizenship or immigration status, sexual orientation, families with children status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled is void.

(2) It is an unfair practice to insert in a written instrument relating to real property a provision that is void under this section or to honor or attempt to honor such a provision in the chain of title.

Sec. 17. RCW 49.60.225 and 2007 c 187 s 16 are each amended to read as follows:

(1) When a reasonable cause determination has been made under RCW 49.60.240 that an unfair practice in a real estate transaction has been committed and a finding has been made that the respondent has engaged in any unfair practice under RCW 49.60.250, the administrative law judge shall promptly issue an order for such relief suffered by the aggrieved person as may be appropriate, which may include actual damages as provided by the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable relief. Such order may, to further the public interest, assess a civil penalty against the respondent:

(a) In an amount up to ten thousand dollars if the respondent has not been determined to have committed any prior unfair practice in a real estate transaction;

(b) In an amount up to twenty-five thousand dollars if the respondent has been determined to have committed one other unfair practice in a real estate transaction during the five-year period ending on the date of the filing of this charge; or

(c) In an amount up to fifty thousand dollars if the respondent has been determined to have committed two or more unfair practices in a real estate transaction during the seven-year period ending on the date of the filing of this charge, for loss of the right secured by RCW 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as now or hereafter amended, to be free from discrimination in real property transactions because of sex, marital status, race, creed, color, national origin, citizenship or immigration status, sexual orientation, families with children status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or

the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled. Enforcement of the order and appeal therefrom by the complainant or respondent may be made as provided in RCW 49.60.260 and 49.60.270. If acts constituting the unfair practice in a real estate transaction that is the object of the charge are determined to have been committed by the same natural person who has been previously determined to have committed acts constituting an unfair practice in a real estate transaction, then the civil penalty of up to fifty thousand dollars may be imposed without regard to the period of time within which any subsequent unfair practice in a real estate transaction occurred. All civil penalties assessed under this section shall be paid into the state treasury and credited to the general fund.

(2) Such order shall not affect any contract, sale, conveyance, encumbrance, or lease consummated before the issuance of an order that involves a bona fide purchaser, encumbrancer, or tenant who does not have actual notice of the charge filed under this chapter.

(3) Notwithstanding any other provision of this chapter, persons awarded damages under this section may not receive additional damages pursuant to RCW 49.60.250.

Passed by the Senate January 17, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 53

[Engrossed Senate Bill 5450]

SUPERIOR COURT JUDGES--ADDING POSITIONS

AN ACT Relating to superior court judges; amending RCW 2.08.062 and 2.08.065; and creating new sections.

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

Sec. 1. RCW 2.08.062 and 2003 c 96 s 1 are each amended to read as follows:

There shall be in the county of Chelan four judges of the superior court; in the county of Douglas one judge of the superior court; in the county of Clark ~~((ten))~~ eleven judges of the superior court; in the county of Grays Harbor three judges of the superior court; in the county of Kitsap eight judges of the superior court; in the county of Kittitas two judges of the superior court; in the county of Lewis three judges of the superior court.

NEW SECTION. Sec. 2. (1) The additional judicial position created by section 1 of this act is effective only if Clark county through its duly constituted legislative authority documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position as provided by state law or the state Constitution.

(2) The judicial position created by section 1 of this act is effective no earlier than the effective date of this section. The actual starting date for the position may be established by the Clark county legislative authority upon

request of the superior court and by recommendation of the Clark county executive authority, if any.

Sec. 3. RCW 2.08.065 and 2014 c 169 s 1 are each amended to read as follows:

There shall be in the county of Grant, three judges of the superior court; in the county of Okanogan, two judges of the superior court; in the county of Mason, three judges of the superior court; in the county of Thurston, eight judges of the superior court; in the counties of Pacific and Wahkiakum jointly, one judge of the superior court; in the counties of Ferry, Pend Oreille, and Stevens jointly, ~~((two))~~ three judges of the superior court; in the county of San Juan, one judge of the superior court; and in the county of Island, two judges of the superior court.

NEW SECTION. **Sec. 4.** (1) The additional judicial position created by section 3 of this act is effective only if Ferry, Pend Oreille, and Stevens counties, jointly through their duly constituted legislative authorities, document their approval of the additional position and their agreement that they will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position as provided by state law and the state Constitution.

(2) The judicial position created by section 3 of this act is effective no later than July 1, 2020. An earlier starting date for the position may be established by joint action of the duly constituted legislative authorities of Ferry, Pend Oreille, and Stevens counties, upon request of the superior court and by recommendation of the executive authorities of each of Ferry, Pend Oreille, and Stevens counties, if any.

Passed by the Senate January 15, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 54

[Senate Bill 5519]

MOSQUITO CONTROL DISTRICTS--ASSESSMENT COLLECTION

AN ACT Relating to mosquito control districts; and amending RCW 17.28.257.

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

Sec. 1. RCW 17.28.257 and 1959 c 64 s 9 are each amended to read as follows:

The provisions of chapters 84.56 and 84.64 RCW and RCW ((36.88.120, 36.88.140, 36.88.150, 36.88.170 and 36.88.180)) 36.29.180 governing ~~((the))~~ liens, collection, payment of assessments, delinquent assessments, interest and penalties, lien foreclosure and foreclosed property ~~((of county road improvement districts))~~ shall govern such matters as applied to mosquito control districts.

Passed by the Senate January 31, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 55

[Substitute Senate Bill 5867]

DRUG OFFENSES--RESENTENCING

AN ACT Relating to the resentencing of persons convicted of drug offenses; adding a new section to chapter 9.94A 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 9.94A RCW to read as follows:

(1) Except as provided in subsection (3) of this section, any offender sentenced for a violation of chapter 69.50 or 69.52 RCW that was committed prior to July 1, 2004, and who is serving a term of incarceration for that offense on the effective date of this section, is entitled to a resentencing hearing. The prosecuting attorney for the county in which any offender was sentenced and to whom this section applies must review the sentencing documents. If the offender is serving a term of incarceration for a violation of chapter 69.50 or 69.52 RCW that was committed prior to July 1, 2004, the prosecuting attorney shall, or the offender may, make a motion for relief from sentence to the original sentencing court.

(2) The sentencing court shall grant the motion if it finds that the offender is serving a sentence for a violation of chapter 69.50 or 69.52 RCW that was committed prior to July 1, 2004, and shall immediately set an expedited date for resentencing. At resentencing, the court shall sentence the offender as if the offender had not previously been sentenced, provided the new sentence is no greater than the initial sentence.

(3) An offender is not entitled to resentencing under this section if the offender has been convicted of a most serious offense or violent offense.

(4) This section expires July 1, 2021.

Passed by the Senate February 18, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 56

[Substitute Senate Bill 5900]

VETERANS AFFAIRS--LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUEER COORDINATOR

AN ACT Relating to promoting access to earned benefits and services for lesbian, gay, bisexual, transgender, and queer veterans; adding a new section to chapter 43.60A RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature declares that veterans must be able to access and receive the benefits and services they have earned in service to our country without regard to sexual orientation or gender identity. The legislature further declares that connecting lesbian, gay, bisexual, transgender, and queer veterans to their earned and related benefits and services, and to programs, resources, and information about such benefits and services, promotes

the economic security and financial stability of veterans, and their spouses and dependents.

NEW SECTION. Sec. 2. A new section is added to chapter 43.60A RCW to read as follows:

(1) The position of lesbian, gay, bisexual, transgender, and queer coordinator is created within the department.

(2) The duties of the lesbian, gay, bisexual, transgender, and queer coordinator include, but are not limited to:

(a) Conducting outreach to, and providing assistance designed for the unique needs of, veterans who are lesbian, gay, bisexual, transgender, and queer, and to the spouses and dependents of such veterans;

(b) Providing assistance to veterans who are lesbian, gay, bisexual, transgender, and queer in applying for an upgrade to the character of a discharge from service or a change in the narrative reason for a discharge from service;

(c) Providing assistance in applying for and obtaining veterans' benefits and benefits available through other programs that provide services and resources to veterans who are lesbian, gay, bisexual, transgender, and queer, and to the spouses and dependents of such veterans;

(d) Providing assistance to veterans who are lesbian, gay, bisexual, transgender, and queer in applying for, and in appealing any denial of, federal and state veterans' benefits and aid that such veterans, and the spouses and dependents of such veterans, may be entitled to; and

(e) Developing and distributing informational materials to veterans who are lesbian, gay, bisexual, transgender, and queer, and to the spouses and dependents of such veterans, regarding veterans' benefits and other benefit programs that provide services and resources to veterans who are lesbian, gay, bisexual, transgender, and queer, and to the spouses and dependents of such veterans.

(3) No later than December 15, 2021, the department must prepare and submit a report to the governor, the joint committee on veterans' and military affairs, and the appropriate standing committees of the legislature regarding the implementation and status of the position of lesbian, gay, bisexual, transgender, and queer coordinator created under subsection (1) of this section. The report must include, at a minimum, information regarding the following:

(a) The number of veterans served;

(b) The type of assistance provided;

(c) Recommendations for the improvement and expansion of the services provided by the coordinator; and

(d) Recommendations for legislative changes.

Passed by the Senate February 12, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 57

[Engrossed Substitute Senate Bill 6028]

UNIFORM ELECTRONIC TRANSACTIONS ACT

AN ACT Relating to adoption of the uniform electronic transactions act and aligning statutory provisions relating to signatures, declarations, and documents; amending RCW 4.92.100, 5.50.010,

5.50.030, 9.38.060, 10.79.080, 18.27.114, 18.64.550, 23.95.105, 23.95.200, 23.95.265, 23.95.420, 23.95.450, 23B.01.200, 23B.01.230, 23B.01.240, 23B.01.250, 23B.01.290, 23B.01.400, 23B.01.410, 23B.01.420, 23B.02.050, 23B.06.200, 23B.06.250, 23B.06.260, 23B.06.300, 23B.07.010, 23B.07.020, 23B.07.035, 23B.07.040, 23B.07.060, 23B.07.200, 23B.07.220, 23B.07.240, 23B.07.300, 23B.07.310, 23B.07.320, 23B.08.070, 23B.08.210, 23B.08.230, 23B.08.240, 23B.08.430, 23B.08.530, 23B.09.020, 23B.09.030, 23B.09.040, 23B.09.060, 23B.13.030, 23B.13.210, 23B.13.260, 23B.13.270, 23B.15.090, 23B.16.010, 23B.16.020, 23B.16.200, 23B.25.040, 23B.25.070, 23B.30.070, 25.10.011, 25.15.006, 26.52.030, 41.05.014, 58.09.050, 58.09.110, 69.41.041, 69.41.055, and 74.08.055; reenacting and amending RCW 19.09.020, 23B.16.030, and 24.03.005; adding a new chapter to Title 1 RCW; and repealing RCW 19.360.010, 19.360.020, 19.360.030, 19.360.040, 19.360.050, 19.360.060, 19.400.010, 19.400.020, and 19.400.030.

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

NEW SECTION. Sec. 1. SHORT TITLE. This chapter may be known and cited as the uniform electronic transactions act.

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

(1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(3) "Blockchain" means a cryptographically secured, chronological, and decentralized consensus ledger or consensus database maintained via internet, peer-to-peer network, or other similar interaction.

(4) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(5) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.

(6) "Distributed ledger technology" means any distributed ledger protocol and supporting infrastructure, including blockchain, that uses a distributed, decentralized, shared, and replicated ledger.

(7) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, including without limitation blockchain and distributed ledger technology.

(8) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

(9) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

(10) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(11) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.

(12) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(13) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(14) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

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

(16) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

(18) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

NEW SECTION. Sec. 3. SCOPE. (1) Except as otherwise provided in subsection (2) of this section, this chapter applies to electronic records and electronic signatures relating to a transaction.

(2) This chapter does not apply to a transaction to the extent it is governed by:

(a) A law governing the creation and execution of wills, codicils, or testamentary trusts; and

(b) Title 62A RCW other than RCW 62A.1-306 and chapters 62A.2 and 62A.2A RCW.

(3) This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under subsection (2) of this section to the extent it is governed by a law other than those specified in subsection (2) of this section.

(4) A transaction subject to this chapter is also subject to other applicable substantive law.

NEW SECTION. Sec. 4. PROSPECTIVE APPLICATION. This chapter applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after the effective date of this section.

NEW SECTION. Sec. 5. USE OF ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES—VARIATION BY AGREEMENT. (1) This chapter does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(2) This chapter applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(3) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection may not be waived by agreement.

(4) Except as otherwise provided in this chapter, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of this chapter of the words "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(5) Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.

NEW SECTION. Sec. 6. CONSTRUCTION AND APPLICATION. This chapter must be construed and applied:

(1) To facilitate electronic transactions consistent with other applicable law;

(2) To be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and

(3) To effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

NEW SECTION. Sec. 7. LEGAL RECOGNITION OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES, AND ELECTRONIC CONTRACTS. (1) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(2) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(3) If a law requires a record to be in writing, an electronic record satisfies the law.

(4) If a law requires a signature, an electronic signature satisfies the law.

NEW SECTION. Sec. 8. PROVISION OF INFORMATION IN WRITING—PRESENTATION OF RECORDS. (1) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

(2) If a law other than this chapter requires a record (a) to be posted or displayed in a certain manner, (b) to be sent, communicated, or transmitted by a specified method, or (c) to contain information that is formatted in a certain manner, the following rules apply:

(i) The record must be posted or displayed in the manner specified in the other law.

(ii) Except as otherwise provided in subsection (4)(b) of this section, the record must be sent, communicated, or transmitted by the method specified in the other law.

(iii) The record must contain the information formatted in the manner specified in the other law.

(3) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

(4) The requirements of this section may not be varied by agreement, but:

(a) To the extent a law other than this chapter requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under subsection (1) of this section that the information be in the form of an electronic record capable of retention may also be varied by agreement; and

(b) A requirement under a law other than this chapter to send, communicate, or transmit a record by regular United States mail may be varied by agreement to the extent permitted by the other law.

NEW SECTION. Sec. 9. ATTRIBUTION AND EFFECT OF ELECTRONIC RECORD AND ELECTRONIC SIGNATURE. (1) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(2) The effect of an electronic record or electronic signature attributed to a person under subsection (1) of this section is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

NEW SECTION. Sec. 10. EFFECT OF CHANGE OR ERROR. If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(1) If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(2) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:

(a) Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person;

(b) Takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and

(c) Has not used or received any benefit or value from the consideration, if any, received from the other person.

(3) If neither subsection (1) of this section nor subsection (2) of this section applies, the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any.

(4) Subsections (2) and (3) of this section may not be varied by agreement.

NEW SECTION. Sec. 11. NOTARIZATION AND ACKNOWLEDGMENT. If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

NEW SECTION. Sec. 12. RETENTION OF ELECTRONIC RECORDS—ORIGINALS. (1) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

(a) Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and

(b) Remains accessible for later reference.

(2) A requirement to retain a record in accordance with subsection (1) of this section does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(3) A person may satisfy subsection (1) of this section by using the services of another person if the requirements of that subsection are satisfied.

(4) If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection (1) of this section.

(5) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (1) of this section.

(6) A record retained as an electronic record in accordance with subsection (1) of this section satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after the effective date of this section specifically prohibits the use of an electronic record for the specified purpose.

(7) This section does not preclude a governmental agency of this state from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

NEW SECTION. Sec. 13. ADMISSIBILITY IN EVIDENCE. In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

NEW SECTION. Sec. 14. AUTOMATED TRANSACTION. In an automated transaction, the following rules apply:

(1) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

(2) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(3) The terms of the contract are determined by the substantive law applicable to it.

NEW SECTION. Sec. 15. TIME AND PLACE OF SENDING AND RECEIPT. (1) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:

(a) Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;

(b) Is in a form capable of being processed by that system; and

(c) Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(2) Unless otherwise agreed between a sender and the recipient, an electronic record is received when:

(a) It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(b) It is in a form capable of being processed by that system.

(3) Subsection (2) of this section applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection (4) of this section.

(4) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, the following rules apply:

(a) If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.

(b) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(5) An electronic record is received under subsection (2) of this section even if no individual is aware of its receipt.

(6) Receipt of an electronic acknowledgment from an information processing system described in subsection (2) of this section establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(7) If a person is aware that an electronic record purportedly sent under subsection (1) of this section, or purportedly received under subsection (2) of this section, was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by

the other law, the requirements of this subsection may not be varied by agreement.

NEW SECTION. Sec. 16. TRANSFERABLE RECORDS. (1) In this section, "transferable record" means an electronic record that:

(a) Would be a note under chapter 62A.3 RCW or a document under chapter 62A.7 RCW if the electronic record were in writing; and

(b) The issuer of the electronic record expressly has agreed is a transferable record.

(2) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(3) A system satisfies subsection (2) of this section, and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

(a) A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in (d), (e), and (f) of this subsection, unalterable;

(b) The authoritative copy identifies the person asserting control as:

(i) The person to which the transferable record was issued; or

(ii) If the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(c) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(d) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(e) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f) Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(4) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in RCW 62A.1-201(b)(21), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the uniform commercial code including, if the applicable statutory requirements under RCW 62A.3-302(a), 62A.7-501, or 62A.9A-330 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

(5) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the uniform commercial code.

(6) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records

sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

NEW SECTION. Sec. 17. CREATION AND RETENTION OF ELECTRONIC RECORDS AND CONVERSION OF WRITTEN RECORDS BY GOVERNMENTAL AGENCIES. Each governmental agency of this state shall determine whether, and the extent to which, a governmental agency will create and retain electronic records and convert written records to electronic records.

NEW SECTION. Sec. 18. ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES. (1) Except as otherwise provided in section 12(6) of this act, each governmental agency of this state shall determine whether, and the extent to which, a governmental agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(2) To the extent that a governmental agency uses electronic records and electronic signatures under subsection (1) of this section, the governmental agency, giving due consideration to security, may specify:

(a) The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;

(b) If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(c) Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

(d) Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(3) Except as otherwise provided in section 12(6) of this act, this chapter does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

NEW SECTION. Sec. 19. INTEROPERABILITY. The governmental agency of this state which adopts standards pursuant to section 18 of this act may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the federal government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

NEW SECTION. Sec. 20. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section

101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Sec. 21. RCW 4.92.100 and 2013 c 188 s 1 are each amended to read as follows:

(1) All claims against the state, or against the state's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct, must be presented to the office of risk management. A claim is deemed presented when the claim form is delivered in person or by regular mail, registered mail, or certified mail, with return receipt requested, or as an attachment to ~~((electronic mail))~~ email or by fax, to the office of risk management. For claims for damages presented after July 26, 2009, all claims for damages must be presented on the standard tort claim form that is maintained by the office of risk management. The standard tort claim form must be posted on the department of enterprise services' web site.

(a) The standard tort claim form must, at a minimum, require the following information:

- (i) The claimant's name, date of birth, and contact information;
 - (ii) A description of the conduct and the circumstances that brought about the injury or damage;
 - (iii) A description of the injury or damage;
 - (iv) A statement of the time and place that the injury or damage occurred;
 - (v) A listing of the names of all persons involved and contact information, if known;
 - (vi) A statement of the amount of damages claimed; and
 - (vii) A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.
- (b)(i) The standard tort claim form must be signed either:
- (A) By the claimant, verifying the claim;
 - (B) Pursuant to a written power of attorney, by the attorney-in-fact for the claimant;
 - (C) By an attorney admitted to practice in Washington state on the claimant's behalf; or
 - (D) By a court-approved guardian or guardian ad litem on behalf of the claimant.

(ii) For the purpose of this subsection (1)(b), when the claim form is presented electronically it must bear an electronic signature in lieu of a written original signature. ~~((An electronic signature means a facsimile of an original signature that is affixed to the claim form and executed or adopted by the person with the intent to sign the document.))~~

(iii) When an electronic signature is used and the claim is submitted as an attachment to ~~((electronic mail))~~ email, the conveyance of that claim must include the date, time the claim was presented, and the internet provider's address from which it was sent. The attached claim form must be a format approved by the office of risk management.

(iv) When an electronic signature is used and the claim is submitted via a facsimile machine, the conveyance must include the date, time the claim was submitted, and the fax number from which it was sent.

(v) In the event of a question on an electronic signature, the claimant shall have an opportunity to cure and the cured notice shall relate back to the date of the original filing.

(c) The amount of damages stated on the claim form is not admissible at trial.

(2) The state shall make available the standard tort claim form described in this section with instructions on how the form is to be presented and the name, address, and business hours of the office of risk management. The standard tort claim form must not list the claimant's social security number and must not require information not specified under this section. The claim form and the instructions for completing the claim form must provide the United States mail, physical, and electronic addresses and numbers where the claim can be presented.

(3) With respect to the content of claims under this section and all procedural requirements in this section, this section must be liberally construed so that substantial compliance will be deemed satisfactory.

Sec. 22. RCW 5.50.010 and 2019 c 232 s 1 are each amended to read as follows:

In this chapter:

(1) "Law" includes a statute, judicial decision or order, rule of court, executive order, and administrative rule, regulation, or order.

(2) "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.

(3) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol;

(b) To attach to or logically associate with the record an electronic symbol, sound, or process;

(c) To affix or place the declarant's signature as defined in RCW 9A.04.110 on the record;

~~(d) ((To attach or logically associate the declarant's digital signature or electronic signature as defined in RCW 19.34.020 to the record;~~

~~(e))~~ To affix or logically associate the declarant's signature in the manner described in general rule 30 to the record if he or she is a licensed attorney; or

~~((f))~~ (e) To affix or logically associate the declarant's full name, department or agency, and badge or personnel number to any record that is electronically submitted to a court, a prosecutor, or a magistrate from an electronic device that is owned, issued, or maintained by a criminal justice agency if the declarant is a law enforcement officer.

(4) "Sworn declaration" means a declaration in a signed record given under oath. The term includes a sworn statement, verification, certificate, and affidavit.

(5) "Unsworn declaration" means a declaration in a signed record not given under oath but given under penalty of perjury. The term includes an unsworn statement, verification, and certificate.

Sec. 23. RCW 5.50.030 and 2011 c 22 s 4 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, if a law of this state requires or permits use of a sworn declaration, an unsworn declaration

meeting the requirements of this chapter has the same effect as a sworn declaration.

(2) This chapter does not apply to:

(a) A deposition;

(b) An oath of office;

(c) An oath required to be given before a specified official other than a notary public; or

(d) A declaration to be recorded pursuant to Title 64 or 65 RCW(~~(~~or~~~~

~~(e) An oath required by RCW 11.20.020).~~

Sec. 24. RCW 9.38.060 and 2019 c 132 s 1 are each amended to read as follows:

(1) A person shall not knowingly misrepresent the person's identity or authorization to obtain a public key certificate used to reference a private key for creating a digital signature.

(2) A person shall not knowingly forge ~~((a))~~ an electronic or digital signature.

(3) A person shall not knowingly present a public key certificate for which the person is not the owner of the corresponding private key in order to obtain unauthorized access to information or engage in an unauthorized transaction.

(4) A person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

(5)(a) "Digital signature" means an electronic signature that is a transformation of a message using an asymmetric cryptosystem such that a person who has the initial message and the signer's public key can accurately determine whether the:

~~((a))~~ (i) Transformation was created using the private key that corresponds to the signer's public key; and

~~((b))~~ (ii) Initial message has been altered since the transformation was made.

(b) "Electronic signature" has the meaning provided in section 2 of this act.

Sec. 25. RCW 10.79.080 and 1983 1st ex.s. c 42 s 3 are each amended to read as follows:

(1) No person may be subjected to a body cavity search by or at the direction of a law enforcement agency unless a search warrant is issued pursuant to superior court criminal rules.

(2) No law enforcement officer may seek a warrant for a body cavity search without first obtaining specific authorization for the body cavity search from the ranking shift supervisor of the law enforcement authority. Authorization for the body cavity search may be obtained electronically(~~(~~PROVIDED, That such electronic authorization shall be reduced to writing by the law enforcement officer seeking the authorization and signed by the ranking supervisor as soon as possible thereafter~~)~~).

(3) Before any body cavity search is authorized or conducted, a thorough pat-down search, a thorough electronic metal-detector search, and a thorough clothing search, where appropriate, must be used to search for and seize any evidence of a crime, contraband, fruits of crime, things otherwise criminally possessed, weapons, or other things by means of which a crime has been committed or reasonably appears about to be committed. No body cavity search

shall be authorized or conducted unless these other methods do not satisfy the safety, security, or evidentiary concerns of the law enforcement agency.

(4) A law enforcement officer requesting a body cavity search shall prepare and sign a report regarding the body cavity search. The report shall include:

- (a) A copy of the written authorization required under subsection (2) of this section;
- (b) A copy of the warrant and any supporting documents required under subsection (1) of this section;
- (c) The name and sex of all persons conducting or observing the search;
- (d) The time, date, place, and description of the search; and
- (e) A statement of the results of the search and a list of any items removed from the person as a result of the search.

The report shall be retained as part of the law enforcement agency's records.

Sec. 26. RCW 18.27.114 and 2007 c 436 s 8 are each amended to read as follows:

(1) Any contractor agreeing to perform any contracting project: (a) For the repair, alteration, or construction of four or fewer residential units or accessory structures on such residential property when the bid or contract price totals one thousand dollars or more; or (b) for the repair, alteration, or construction of a commercial building when the bid or contract price totals one thousand dollars or more but less than sixty thousand dollars, must provide the customer with the following disclosure statement in substantially the following form using lower case and upper case twelve-point and bold type where appropriate, prior to starting work on the project:

"NOTICE TO CUSTOMER

This contractor is registered with the state of Washington, registration no. . . . , and has posted with the state a bond or deposit of for the purpose of satisfying claims against the contractor for breach of contract including negligent or improper work in the conduct of the contractor's business. The expiration date of this contractor's registration is

THIS BOND OR DEPOSIT MIGHT NOT BE SUFFICIENT TO COVER A CLAIM THAT MIGHT ARISE FROM THE WORK DONE UNDER YOUR CONTRACT.

This bond or deposit is not for your exclusive use because it covers all work performed by this contractor. The bond or deposit is intended to pay valid claims up to that you and other customers, suppliers, subcontractors, or taxing authorities may have.

FOR GREATER PROTECTION YOU MAY WITHHOLD A PERCENTAGE OF YOUR CONTRACT.

You may withhold a contractually defined percentage of your construction contract as retainage for a stated period of time to provide protection to you and help insure that your project will be completed as required by your contract.

YOUR PROPERTY MAY BE LIENED.

If a supplier of materials used in your construction project or an employee or subcontractor of your contractor or subcontractors is not paid, your property may be liened to force payment and you could pay twice for the same work.

FOR ADDITIONAL PROTECTION, YOU MAY REQUEST THE CONTRACTOR TO PROVIDE YOU WITH ORIGINAL "LIEN RELEASE" DOCUMENTS FROM EACH SUPPLIER OR SUBCONTRACTOR ON YOUR PROJECT.

The contractor is required to provide you with further information about lien release documents if you request it. General information is also available from the state Department of Labor and Industries.

I have received a copy of this disclosure statement.

.....
 (Signature of customer)"

(2) The contractor must retain a signed copy of the disclosure statement in his or her files for a minimum of three years, and produce a ((signed or electronic signature)) copy of the signed disclosure statement to the department upon request.

(3) A contractor subject to this section shall notify any consumer to whom notice is required under subsection (1) of this section if the contractor's registration has expired or is revoked or suspended by the department prior to completion or other termination of the contract with the consumer.

(4) No contractor subject to this section may bring or maintain any lien claim under chapter 60.04 RCW based on any contract to which this section applies without alleging and proving that the contractor has provided the customer with a copy of the disclosure statement as required in subsection (1) of this section.

(5) This section does not apply to contracts authorized under chapter 39.04 RCW or to contractors contracting with other contractors.

(6) Failure to comply with this section shall constitute an infraction under the provisions of this chapter.

(7) The department shall produce model disclosure statements, and public service announcements detailing the information needed to assist contractors and contractors' customers to comply under this section. As necessary, the department shall periodically update these education materials.

Sec. 27. RCW 18.64.550 and 2016 c 148 s 2 are each amended to read as follows:

- (1) A chart order must be considered a prescription if it contains:
 - (a) The full name of the patient;
 - (b) The date of issuance;
 - (c) The name, strength, and dosage form of the drug prescribed;
 - (d) Directions for use; and
 - (e) An authorized signature((±

~~(i) For written orders,)). The order must contain the prescribing practitioner's signature or the signature of the practitioner's authorized agent, including the name of the prescribing practitioner((~~or~~~~

~~(ii) For electronic or digital orders, the order must contain the prescribing practitioner's electronic or digital signature, or the electronic or digital signature of the practitioner's authorized agent, including the name of the prescribing practitioner)).~~

(2) A licensed nurse, pharmacist, or physician practicing in a long-term care facility or hospice program may act as the practitioner's agent for purposes of this chapter, without need for a written agency agreement, to document a chart order in the patient's medical record on behalf of the prescribing practitioner pending the prescribing practitioner's signature; or to communicate a prescription to a pharmacy whether telephonically, via facsimile, or electronically. The communication of a prescription to a dispenser by the prescriber's agent has the same force and effect as if communicated directly by the authorized practitioner.

(3) Nothing in this chapter prevents an authorized credentialed employee of a long-term care facility from transmitting a chart order pursuant to RCW 74.42.230, or transmitting a prescription on behalf of a resident to the extent otherwise authorized by law.

Sec. 28. RCW 19.09.020 and 2011 c 199 s 2 and 2011 c 60 s 9 are each reenacted and amended to read as follows:

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

(1) A "bona fide officer or employee" of a charitable organization is one (a) whose conduct is subject to direct control by such organization; (b) who does not act in the manner of an independent contractor in his or her relation with the organization; and (c) whose compensation is not computed on funds raised or to be raised.

(2) "Charitable organization" means any entity that solicits or collects contributions from the general public where the contribution is or is purported to be used to support a charitable purpose, but does not include any commercial fund-raiser, commercial fund-raising entity, commercial coventurer, or any fund-raising counsel, as defined in this section. Churches and their integrated auxiliaries, and political organizations are not charitable organizations, but all are subject to RCW 19.09.100 (15) through (18).

(3) "Charitable purpose" means any religious, charitable, scientific, testing for public safety, literary, or educational purpose or any other purpose that is beneficial to the community, including environmental, humanitarian, patriotic, or civic purposes, the support of national or international amateur sports competition, the prevention of cruelty to children or animals, the advancement of social welfare, or the benefit of law enforcement personnel, firefighters, and other persons who protect public safety. The term "charitable" is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

(4) "Commercial coventurer" means any individual or corporation, partnership, sole proprietorship, limited liability company, limited partnership, limited liability partnership, or any other legal entity, that:

(a) Is regularly and primarily engaged in making sales of goods or services for profit directly to the general public;

(b) Is not otherwise regularly or primarily engaged in making solicitations in this state or otherwise raising funds in this state for one or more charitable organizations;

(c) Represents to prospective purchasers that, if they purchase a good or service from the commercial coventurer, a portion of the sales price or a sum of money or some other specified thing of value will be donated to a named charitable organization; and

(d) Does not ask purchasers to make checks or other instruments payable to a named charitable organization or any entity other than the commercial coventurer itself under its regular commercial name.

(5) "Commercial fund-raiser" or "commercial fund-raising entity" means any entity that for compensation or other consideration directly or indirectly solicits or receives contributions within this state for or on behalf of any charitable organization or charitable purpose, or that is engaged in the business of, or represents to persons in this state as independently engaged in the business of, soliciting or receiving contributions for such purposes. However, a commercial coventurer, fund-raising counsel, or consultant is not a commercial fund-raiser or commercial fund-raising entity.

(6) "Compensation" means salaries, wages, fees, commissions, or any other remuneration or valuable consideration.

(7) "Contribution" means the payment, donation, or promise, for consideration or otherwise, of any money or property of any kind or value which contribution is wholly or partly induced by a solicitation. Reference to dollar amounts of "contributions" or "solicitations" in this chapter means in the case of payments or promises to pay for merchandise or rights of any description, the value of the total amount paid or promised to be paid for such merchandise or rights.

(8) "Cost of solicitation" means and includes all direct and indirect costs, expenditures, debts, obligations, salaries, wages, commissions, fees, or other money or thing of value paid or incurred in making a solicitation.

(9) "Entity" means an individual, organization, group, association, partnership, corporation, agency or unit of state government, or any combination thereof.

(10) "Fund-raising counsel" or "consultant" means any entity or individual who is retained by a charitable organization, for a fixed fee or rate, that is not computed on a percentage of funds raised, or to be raised, under a written agreement only to plan, advise, consult, or prepare materials for a solicitation of contributions in this state, but who does not manage, conduct, or carry on a fund-raising campaign and who does not solicit contributions or employ, procure, or engage any compensated person to solicit contributions, and who does not at any time have custody or control of contributions. A volunteer, employee, or salaried officer of a charitable organization maintaining a permanent establishment or office in this state is not a fund-raising counsel. An attorney, investment counselor, or banker who advises an individual,

corporation, or association to make a charitable contribution is not a fund-raising counsel as a result of the advice.

(11) "General public" or "public" means any individual or entity located in Washington state without a membership or other official relationship with a charitable organization before a solicitation by the charitable organization.

(12) "Gross revenue" or "annual gross revenue" means, for any accounting period, the total value of revenue, excluding unrealized capital gains, but including noncash contributions of tangible, personal property received by or on behalf of a charitable organization from all sources, without subtracting any costs or expenses.

(13) "Membership" means that for the payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor, or other direct benefit, in addition to the right to vote, elect officers, or hold office. The term "membership" does not include those persons who are granted a membership upon making a contribution as the result of solicitation.

(14) "Other employee" of a charitable organization means any person (a) whose conduct is subject to direct control by such organization; (b) who does not act in the manner of any independent contractor in his or her relation with the organization; and (c) who is not engaged in the business of or held out to persons in this state as independently engaged in the business of soliciting contributions for charitable purposes or religious activities.

(15) "Political organization" means those organizations whose activities are subject to chapter 42.17A RCW or the federal elections campaign act of 1971, as amended.

(16) "Religious organization" means those entities that are not churches or integrated auxiliaries and includes nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, speakers' organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion.

(17) "Secretary" means the secretary of state.

(18) (~~"Signed" means hand-written, or, if the secretary adopts rules facilitating electronic filing that pertain to this chapter, in the manner prescribed by those rules.~~) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(19)(a) "Solicitation" means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:

(i) Any appeal is made for any charitable purpose;

(ii) The name of any charitable organization is used as an inducement for consummating the sale; or

(iii) Any statement is made that implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization.

(b) The solicitation shall be deemed completed when made, whether or not the person making it receives any contribution or makes any sale.

(c) "Solicitation" does not include bingo activities, raffles, and amusement games conducted under chapter 9.46 RCW and applicable rules of the Washington state gambling commission.

(20) "Solicitation report" means the financial information the secretary requires pursuant to RCW 19.09.075 or 19.09.079.

Sec. 29. RCW 23.95.105 and 2019 c 37 s 1401 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise or as set forth in RCW 23.95.400 or 23.95.600.

(1) "Annual report" means the report required by RCW 23.95.255.

(2) "Business corporation" means a domestic business corporation incorporated under or subject to Title 23B RCW or a foreign business corporation.

(3) "Commercial registered agent" means a person listed under RCW 23.95.420.

(4) "Domestic," with respect to an entity, means governed as to its internal affairs by the law of this state.

(5) "Electronic transmission" means an electronic communication:

(a) Not directly involving the physical transfer of a record in a tangible medium; and

(b) That may be retained, retrieved, and reviewed by the sender and the recipient thereof, and that may be directly reproduced in a tangible medium by such a sender and recipient.

(6) "Entity" means:

(a) A business corporation;

(b) A nonprofit corporation;

(c) A limited liability partnership;

(d) A limited partnership;

(e) A limited liability company;

(f) A general cooperative association; or

(g) A limited cooperative association.

(7) "Entity filing" means a record delivered to the secretary of state for filing pursuant to this chapter.

(8) "Execute," "executes," or "executed" means with present intent to authenticate or adopt a record:

(a) ~~((Signed with respect to a written record))~~ To sign or adopt a tangible symbol;

(b) ~~((Electronically transmitted along with sufficient information to determine the sender's identity with respect to an electronic transmission))~~ To attach to or logically associate with the record an electronic symbol, sound, or process; or

(c) With respect to a record to be filed with the secretary of state, in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state.

(9) "Filed record" means a record filed by the secretary of state pursuant to this chapter.

(10) "Foreign," with respect to an entity, means governed as to its internal affairs by the law of a jurisdiction other than this state.

(11) "General cooperative association" means a domestic general cooperative association formed under or subject to chapter 23.86 RCW.

(12) "Governor" means:

- (a) A director of a business corporation;
- (b) A director of a nonprofit corporation;
- (c) A partner of a limited liability partnership;
- (d) A general partner of a limited partnership;
- (e) A manager of a manager-managed limited liability company;
- (f) A member of a member-managed limited liability company;
- (g) A director of a general cooperative association;
- (h) A director of a limited cooperative association; or

(i) Any other person under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.

(13) "Interest" means:

- (a) A share in a business corporation;
- (b) A membership in a nonprofit corporation;
- (c) A share in a nonprofit corporation formed under chapter 24.06 RCW;
- (d) A partnership interest in a limited liability partnership;
- (e) A partnership interest in a limited partnership;
- (f) A limited liability company interest;
- (g) A share or membership in a general cooperative association; or
- (h) A member's interest in a limited cooperative association.

(14) "Interest holder" means:

- (a) A shareholder of a business corporation;
- (b) A member of a nonprofit corporation;
- (c) A shareholder of a nonprofit corporation formed under chapter 24.06

RCW;

- (d) A partner of a limited liability partnership;
- (e) A general partner of a limited partnership;
- (f) A limited partner of a limited partnership;
- (g) A member of a limited liability company;
- (h) A shareholder or member of a general cooperative association; or
- (i) A member of a limited cooperative association.

(15) "Jurisdiction," when used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

(16) "Jurisdiction of formation" means the jurisdiction whose law includes the organic law of an entity.

(17) "Limited cooperative association" means a domestic limited cooperative association formed under or subject to chapter 23.100 RCW or a foreign limited cooperative association.

(18) "Limited liability company" means a domestic limited liability company formed under or subject to chapter 25.15 RCW or a foreign limited liability company.

(19) "Limited liability limited partnership" means a domestic limited liability limited partnership formed under or subject to chapter 25.10 RCW or a foreign limited liability limited partnership.

(20) "Limited liability partnership" means a domestic limited liability partnership registered under or subject to chapter 25.05 RCW or a foreign limited liability partnership.

(21) "Limited partnership" means a domestic limited partnership formed under or subject to chapter 25.10 RCW or a foreign limited partnership. "Limited partnership" includes a limited liability limited partnership.

(22) "Noncommercial registered agent" means a person that is not a commercial registered agent and is:

(a) An individual or domestic or foreign entity that serves in this state as the registered agent of an entity;

(b) An individual who holds the office or other position in an entity which is designated as the registered agent pursuant to RCW 23.95.415(1)(b)(ii); or

(c) A government, governmental subdivision, agency, or instrumentality, or a separate legal entity comprised of two or more of these entities, that serves as the registered agent of an entity.

(23) "Nonprofit corporation" means a domestic nonprofit corporation incorporated under or subject to chapter 24.03 or 24.06 RCW or a foreign nonprofit corporation.

(24) "Nonregistered foreign entity" means a foreign entity that is not registered to do business in this state pursuant to a statement of registration filed by the secretary of state.

(25) "Organic law" means the law of an entity's jurisdiction of formation governing the internal affairs of the entity.

(26) "Organic rules" means the public organic record and private organic rules of an entity.

(27) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, general cooperative association, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(28) "Principal office" means the principal executive office of an entity, whether or not the office is located in this state.

(29) "Private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all its interest holders, and are not part of its public organic record, if any. "Private organic rules" includes:

(a) The bylaws of a business corporation and any agreement among shareholders pursuant to RCW 23B.07.320;

(b) The bylaws of a nonprofit corporation;

(c) The partnership agreement of a limited liability partnership;

(d) The partnership agreement of a limited partnership;

(e) The limited liability company agreement;

(f) The bylaws of a general cooperative association; and

(g) The bylaws of a limited cooperative association.

(30) "Proceeding" means civil suit and criminal, administrative, and investigatory action.

(31) "Property" means all property, whether real, personal, or mixed or tangible or intangible, or any right or interest therein.

(32) "Public organic record" means the record the filing of which by the secretary of state is required to form an entity and any amendment to or restatement of that record. The term includes:

- (a) The articles of incorporation of a business corporation;
- (b) The articles of incorporation of a nonprofit corporation;
- (c) The certificate of limited partnership of a limited partnership;
- (d) The certificate of formation of a limited liability company;
- (e) The articles of incorporation of a general cooperative association;
- (f) The articles of organization of a limited cooperative association; and
- (g) The document under the laws of another jurisdiction that is equivalent to a document listed in this subsection.

(33) "Receipt," as used in this chapter, means actual receipt. "Receive" has a corresponding meaning.

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

(35) "Registered agent" means an agent of an entity which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the entity. The term includes a commercial registered agent and a noncommercial registered agent.

(36) "Registered foreign entity" means a foreign entity that is registered to do business in this state pursuant to a certificate of registration filed by the secretary of state.

(37) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(38) "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.

(39) "Transfer" includes:

- (a) An assignment;
- (b) A conveyance;
- (c) A sale;
- (d) A lease;
- (e) An encumbrance, including a mortgage or security interest;
- (f) A change of record owner of interest;
- (g) A gift; and
- (h) A transfer by operation of law.

~~((39))~~ (40) "Type of entity" means a generic form of entity:

- (a) Recognized at common law; or
- (b) Formed under an organic law, whether or not some entities formed under that law are subject to provisions of that law that create different categories of the form of entity.

~~((40)) "Writing" does not include an electronic transmission.~~

~~(41) "Written" means embodied in a tangible medium.)~~

Sec. 30. RCW 23.95.200 and 2015 c 176 s 1201 are each amended to read as follows:

(1) To be filed by the secretary of state pursuant to this chapter, an entity filing must be received by the secretary of state, comply with this chapter, and satisfy the following:

(a) The entity filing must be required or permitted by Title 23, 23B, 24, or 25 RCW.

(b) The entity filing must be delivered in ~~((written form))~~ a tangible medium unless and to the extent the secretary of state permits electronic delivery of entity filings pursuant to RCW 23.95.115(2).

(c) The words in the entity filing must be in English, and numbers must be in Arabic or Roman numerals, but the name of the entity need not be in English if written in English letters or Arabic or Roman numerals.

(d) The entity filing must be executed by or on behalf of a person authorized or required under this chapter or the entity's organic law to execute the filing.

(e) The entity filing must state the name and capacity, if any, of each individual who executed it, on behalf of either the individual or the person authorized or required to execute the filing, but need not contain a seal, attestation, acknowledgment, or verification.

(2) When an entity filing is delivered to the secretary of state for filing, any fee required under this chapter and any fee, interest, or penalty required to be paid under this chapter or law other than this chapter must be paid in a manner permitted by the secretary of state or by that law.

(3) The secretary of state may require that an entity filing delivered in ~~((written form))~~ a tangible medium be accompanied by an identical or conformed copy.

(4) A record filed under this chapter may be executed by an individual acting in a valid representative capacity.

Sec. 31. RCW 23.95.265 and 2015 c 176 s 1214 are each amended to read as follows:

The secretary of state may, where exigent or mitigating circumstances are presented, waive penalty fees due from any entity previously in good standing which would otherwise be penalized or lose its active status. An entity desiring to seek relief under this section must, within fifteen days of discovery of the missed filing or lapse, notify the secretary of state ~~((in writing))~~ as provided in rule. The notification must include the name and mailing address of the entity, the governor or other entity official to whom correspondence should be sent, and a statement under oath by a governor or other entity official, setting forth the nature of the missed filing or lapse, the circumstances giving rise to the missed filing or lapse, and the relief sought. If the secretary of state is satisfied that sufficient exigent or mitigating circumstances exist, that the entity has demonstrated good faith and a reasonable attempt to comply with the applicable statutes of this state, the secretary of state may issue an order allowing relief from the penalty. If the secretary of state determines the request does not comply with the requirements for relief, the secretary of state shall deny the relief and state the reasons for the denial. Any denial of relief by the secretary of state is not reviewable notwithstanding the provisions of chapter 34.05 RCW.

Sec. 32. RCW 23.95.420 and 2015 c 176 s 1405 are each amended to read as follows:

(1) A person may become listed as a commercial registered agent by delivering to the secretary of state for filing a commercial-registered-agent listing statement executed by the person which states:

(a) The name of the individual or the name of the entity, type of entity, and jurisdiction of formation of the entity;

(b) That the person is in the business of serving as a commercial registered agent in this state; and

(c) The address of a place of business of the person in this state to which service of process, notices, and demands being served on or sent to entities represented by the person may be delivered.

(2) A commercial-registered-agent listing statement may include the information regarding acceptance by the agent of service of process, notices, and demands in a form other than a (~~written record~~) tangible medium as provided in RCW 23.95.450(5).

(3) If the name of a person delivering to the secretary of state for filing a commercial-registered-agent listing statement is not distinguishable on the records of the secretary of state from the name of another commercial registered agent listed under this section, the person shall adopt a fictitious name that is distinguishable and use that name in its statement and when it does business in this state as a commercial registered agent.

(4) The secretary of state shall note the filing of a commercial-registered-agent listing statement in the records maintained by the secretary of state for each entity represented by the agent at the time of the filing. The statement has the effect of amending the registered agent filing for each of those entities to:

(a) Designate the person becoming listed as a commercial registered agent as the commercial registered agent of each of those entities; and

(b) Delete the name and address of the former agent from the registered agent filing of each of those entities.

Sec. 33. RCW 23.95.450 and 2015 c 176 s 1411 are each amended to read as follows:

(1) A represented entity may be served with any process, notice, or demand required or permitted by law by serving its registered agent.

(2) If a represented entity ceases to have a registered agent, or if its registered agent cannot with reasonable diligence be served, the entity may be served by registered or certified mail, return receipt requested, or by similar commercial delivery service, addressed to the entity at the entity's principal office. The address of the principal office must be as shown in the entity's most recent annual report filed by the secretary of state. Service is effected under this subsection on the earliest of:

(a) The date the entity receives the mail or delivery by the commercial delivery service;

(b) The date shown on the return receipt, if executed by the entity; or

(c) Five days after its deposit with the United States postal service or commercial delivery service, if correctly addressed and with sufficient postage or payment.

(3) If process, notice, or demand cannot be served on an entity pursuant to subsection (1) or (2) of this section, service may be made by handing a copy to the individual in charge of any regular place of business or activity of the entity if the individual served is not a plaintiff in the action.

(4) The secretary of state shall be an agent of the entity for service of process if process, notice, or demand cannot be served on an entity pursuant to subsection (1), (2), or (3) of this section.

(5) Service of process, notice, or demand on a registered agent must be in a ~~((written record))~~ tangible medium, but service may be made on a commercial registered agent in other forms, and subject to such requirements, as the agent has stated in its listing under RCW 23.95.420 that it will accept.

(6) Service of process, notice, or demand may be made by other means under law other than this chapter.

Sec. 34. RCW 23B.01.200 and 2015 c 176 s 2101 are each amended to read as follows:

(1) A ~~((record))~~ document required or permitted by this title to be filed in the office of the secretary of state must satisfy the requirements of Article 2 of chapter 23.95 RCW, this section, and any other section that adds to or varies from these requirements, to be entitled to filing by the secretary of state.

(2) Unless otherwise indicated in this title, all ~~((records))~~ documents delivered to the secretary of state for filing must be executed:

(a) By the chairperson of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(b) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

Sec. 35. RCW 23B.01.230 and 2015 c 176 s 2103 are each amended to read as follows:

A ~~((record))~~ document filed with the secretary of state is effective as provided in RCW 23.95.210, and may state a delayed effective date and time in accordance with RCW 23.95.210.

Sec. 36. RCW 23B.01.240 and 2015 c 176 s 2104 are each amended to read as follows:

A domestic or foreign corporation may correct a ~~((record))~~ document filed by the secretary of state in accordance with RCW 23.95.220.

Sec. 37. RCW 23B.01.250 and 2015 c 176 s 2105 are each amended to read as follows:

RCW 23.95.225 governs the secretary of state's duty to file ~~((records))~~ documents delivered to the secretary of state for filing, the manner and effect of filing, and procedures that apply when the secretary of state refuses to file a ~~((record))~~ document.

Sec. 38. RCW 23B.01.290 and 2015 c 176 s 2107 are each amended to read as follows:

RCW 23.95.240 governs the penalty that applies for executing a false ~~((record))~~ document that is intended to be delivered to the secretary of state for filing.

Sec. 39. RCW 23B.01.400 and 2019 c 141 s 5 are each amended to read as follows:

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

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so prepared that a reasonable person against whom the ~~((record))~~ writing is to operate should have noticed it. For example, ~~((printing))~~ text in italics ~~((or))~~, boldface ~~((or))~~, contrasting color, ~~((or typing in))~~ capitals, or underlined~~((;))~~ is conspicuous.

(4) "Controlling interest" means ownership of an entity's outstanding shares or interests in such number as to entitle the holder at the time to elect a majority of the entity's directors or other governors without regard to voting power which may thereafter exist upon a default, failure, or other contingency.

(5) "Corporate action" means any resolution, act, policy, contract, transaction, plan, adoption or amendment of articles of incorporation or bylaws, or other matter approved by or submitted for approval to a corporation's incorporators, board of directors or a committee thereof, or shareholders.

(6) "Corporation" or "domestic corporation" means a corporation for profit, including a social purpose corporation, which is not a foreign corporation, incorporated under or subject to the provisions of this title.

(7) "Deliver" ~~((includes (a) mailing, (b) for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or shareholders, transmission by facsimile equipment, and (c) for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or shareholders under RCW 23B.01.410 or chapter 23B.07, 23B.08, 23B.11, 23B.13, 23B.14, or 23B.16 RCW delivery))~~ or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and, if authorized in accordance with RCW 23B.01.410, by electronic transmission.

(8) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect to any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a distribution in partial or complete liquidation, or upon voluntary or involuntary dissolution; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(9) ~~("Effective date of notice" has the meaning provided in RCW 23B.01.410.~~

(10) ~~"Electronic transmission" means an electronic communication (a) not directly involving the physical transfer of a record in a tangible medium and (b) that may be retained, retrieved, and reviewed by the sender and the recipient thereof, and that may be directly reproduced in a tangible medium by such a sender and recipient.~~

(11) ~~"Electronically transmitted" means the initiation of an electronic transmission.~~

~~((12))~~ "Document" means:

(a) Any tangible medium on which information is inscribed, and includes handwritten, typed, printed, or similar instruments or copies of such instruments; and

(b) An electronic record.

(10) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(11) "Electronic mail" means an electronic transmission directed to a unique electronic mail address, which electronic mail will be deemed to include any files attached thereto and any information hyperlinked to a web site if the electronic mail includes the contact information of an officer or agent of the corporation who is available to assist with accessing such files and information.

(12) "Electronic mail address" means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox, commonly referred to as the "local part" of the address, and a reference to an internet domain, commonly referred to as the "domain part" of the address, whether or not displayed, to which electronic mail can be sent or delivered.

(13) "Electronic record" means information that is stored in an electronic or other nontangible medium and is retrievable in paper form through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with RCW 23B.01.410(10).

(14) "Electronic transmission" or "electronically transmitted" means internet transmission, telephonic transmission, electronic mail transmission, transmission of a telegram, cablegram, or datagram, the use of, or participation in, one or more electronic networks or databases including one or more distributed electronic networks or databases, or any other form or process of communication, not directly involving the physical transfer of paper or another tangible medium, which:

(a) Is suitable for the retention, retrieval, and reproduction of information by the recipient; and

(b) Is retrievable in paper form by the recipient through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with RCW 23B.01.410(10).

(15) "Employee" includes an officer but not a director. A director may accept duties that make the director also an employee.

~~((13))~~ (16) "Entity" includes a corporation and foreign corporation, not-for-profit corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, two or more persons having a joint or common economic interest, the state, United States, and a foreign governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

~~((14))~~ (17) "Execute," "executes," or "executed" means ~~((a) signed with respect to a written record or (b) electronically transmitted along with sufficient information to determine the sender's identity with respect to)),~~ with present intent to authenticate or adopt a document:

(a) To sign or adopt a tangible symbol to the document, and includes any manual, facsimile, or conformed signature;

(b) To attach or logically associate with an electronic transmission~~((-or))~~ an electronic sound, symbol, or process, and includes an electronic signature; or

(c) ~~((with))~~ With respect to a ~~((record))~~ document to be filed with the secretary of state, in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state.

~~((15))~~ (18) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

~~((16))~~ (19) "Foreign limited partnership" means a partnership formed under laws other than of this state and having as partners one or more general partners and one or more limited partners.

~~((17))~~ (20) "General social purpose" means the general social purpose for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(1)(c).

~~((18))~~ (21) "Governmental subdivision" includes authority, county, district, and municipality.

~~((19))~~ (22) "Governor" has the meaning given that term in RCW 23.95.105.

~~((20))~~ (23) "Includes" denotes a partial definition.

~~((21))~~ (24) "Individual" includes the estate of an incompetent or deceased individual.

~~((22))~~ (25) "Limited partnership" or "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

~~((23))~~ (26) "Means" denotes an exhaustive definition.

~~((24))~~ (27) "Notice" has the meaning provided in RCW 23B.01.410.

~~((25))~~ (28) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

~~((26))~~ (29) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

~~((27))~~ (30) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

~~((28))~~ (31) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 or 15 of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute.

~~((29))~~ (32) "Qualified director" means (a) with respect to a director's conflicting interest transaction as defined in RCW 23B.08.700, any director who does not have either (i) a conflicting interest respecting the transaction, or (ii) a familial, financial, professional, or employment relationship with a second director who does have a conflicting interest respecting the transaction, which relationship would, in the circumstances, reasonably be expected to exert an influence on the first director's judgment when voting on the transaction; (b) with respect to RCW 23B.08.735, a qualified director under (a) of this subsection if the business opportunity were a director's conflicting interest transaction; and (c) with respect to RCW 23B.02.020(5)(k), a director who is not a director (i) to whom the limitation or elimination of the duty of an officer to offer potential business opportunities to the corporation would apply, or (ii) who has a familial, financial, professional, or employment relationship with another officer to whom the limitation or elimination would apply, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the limitation or elimination.

~~((30)) "Record" means information inscribed on a tangible medium or contained in an electronic transmission.~~

~~((31))~~ (33) "Record date" means the date established under chapter 23B.07 RCW on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this title. The determinations shall be made

as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

~~((32))~~ (34) "Registered office" means the address of the corporation's registered agent.

~~((33))~~ (35) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under RCW 23B.08.400(3) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

~~((34))~~ (36) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

~~((35))~~ (37) "Shares" means the units into which the proprietary interests in a corporation are divided.

~~((36))~~ (38) "Social purpose" includes any general social purpose and any specific social purpose.

~~((37))~~ (39) "Social purpose corporation" means a corporation that has elected to be governed as a social purpose corporation under chapter 23B.25 RCW.

~~((38))~~ (40) "Specific social purpose" means the specific social purpose or purposes for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(2)(a).

~~((39))~~ (41) "State," when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

~~((40))~~ (42) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

~~((41))~~ (43) "Subsidiary" means an entity in which the corporation has, directly or indirectly, a controlling interest.

~~((42) "Tangible medium" means a writing, copy of a writing, or facsimile, or a physical reproduction, each on paper or on other tangible material.~~

~~(43))~~ (44) "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

~~((44))~~ (45) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this title are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this title to vote generally on the matter are for that purpose a single voting group.

~~((45) "Writing" does not include an electronic transmission.~~

~~(46) "Written" means embodied in a tangible medium.)~~ (46) "Writing" or "written" means any information in the form of a document.

Sec. 40. RCW 23B.01.410 and 2015 c 176 s 2108 are each amended to read as follows:

(1) ~~(Notice)~~ A notice under this title must be (provided in the form of a record) in writing, except that oral notice of any meeting of the board of directors may be given if expressly authorized by the articles of incorporation or bylaws. A notice includes material that this title requires to accompany the

notice. Unless otherwise agreed between the sender and the recipient, words in a notice or other communication under this title must be in English.

~~(2) ((Permissible means of transmission:~~

~~(a) Oral notice. Oral notice may be communicated in person, by telephone, wire, or wireless equipment which does not transmit a facsimile of the notice, or by any electronic means which does not create a record. If these forms of oral notice are impracticable, oral notice may be communicated by radio, television, or other form of public broadcast communication.~~

~~(b) Notice provided in a tangible medium. Notice may be provided in a tangible medium and be transmitted by mail, private carrier, or personal delivery; telegraph or teletype; or telephone, wire, or wireless equipment which transmits a facsimile of the notice. If these forms of notice in a tangible medium are impracticable, notice in a tangible medium may be transmitted by an advertisement in a newspaper of general circulation in the area where published.~~

~~(c) Notice provided in an electronic transmission:~~

~~(i) Notice may be provided in an electronic transmission and be electronically transmitted.~~

~~(ii) Notice to shareholders or directors in an electronic transmission is effective only with respect to shareholders and directors that have consented, in the form of a record, to receive electronically transmitted notices under this title and designated in the consent the address, location, or system to which these notices may be electronically transmitted and with respect to a notice that otherwise complies with any other requirements of this title and applicable federal law.~~

~~(A) Notice to shareholders or directors for this purpose includes material that this title requires to accompany the notice.~~

~~(B) A shareholder or director who has consented to receipt of electronically transmitted notices may revoke this consent by delivering a revocation to the corporation in the form of a record.~~

~~(C) The consent of any shareholder or director is revoked if (I) the corporation is unable to electronically transmit two consecutive notices given by the corporation in accordance with the consent, and (II) this inability becomes known to the secretary of the corporation, the transfer agent, or any other person responsible for giving the notice. The inadvertent failure by the corporation to treat this inability as a revocation does not invalidate any meeting or other corporate action.~~

~~(iii) Notice to shareholders or directors who have consented to receipt of electronically transmitted notices may be provided by (A) posting the notice on an electronic network and (B) delivering to the shareholder or director a separate record of the posting, together with comprehensible instructions regarding how to obtain access to the posting on the electronic network.~~

~~(iv) Notice to a domestic or foreign corporation, authorized to transact business in this state, in an electronic transmission is effective only with respect to a corporation that has designated in a record an address, location, or system to which the notices may be electronically transmitted.~~

(d) Materials accompanying notice to shareholders of public companies.) A notice or other communication may be given by any method of delivery, except that electronic transmissions must be in accordance with this section. If the methods of delivery are impracticable, a notice or other communication may be

given by means of a broad nonexclusionary distribution to the public, which may include a newspaper of general circulation in the area where published; radio, television, or other form of public broadcast communication; or other methods of distribution that the corporation has previously identified to its shareholders.

(3) A notice or other communication to a domestic or foreign corporation registered to do business in this state may be delivered to the corporation's registered agent or to the secretary at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its foreign registration statement.

(4) A notice or other communications may be delivered by electronic transmission if consented to by the recipient or if authorized by subsection (10) of this section; except that if the articles of incorporation or bylaws authorize or require delivery of notices of meetings of directors by electronic transmission, then no consent to delivery of such notices by electronic transmission is required.

(5) Any consent under subsection (4) of this section may be revoked by the person who consented by written notice to the person to whom the consent was delivered. Any such consent is deemed revoked if:

(a) The corporation is unable to deliver two consecutive electronic transmissions given by the corporation in accordance with such consent; and

(b) Such inability becomes known to the secretary or to the transfer agent, or other person responsible for the giving of notice or other communications. The inadvertent failure to treat such inability as a revocation will not invalidate any meeting or other corporate action.

(6) Unless otherwise agreed between the sender and the recipient, an electronic transmission is received when:

(a) If by electronic mail, it is directed to the recipient's electronic mail address including, in the case of a shareholder, to the shareholder's electronic mail address as it appears in the corporation's records;

(b) If by posting on an electronic network, upon the later of such posting and the delivery of separate notice to the recipient of such specific posting together with comprehensible instructions regarding how to obtain access to the posting on the electronic network; and

(c) If by any other electronic transmission, it enters an information processing system that the recipient has designated or uses for the purposes of receiving electronic transmissions or information of the type sent, and from which the recipient is able to retrieve the electronic transmission and it is in a form capable of being processed by that system.

(7) Receipt of an electronic acknowledgment from an information processing system described in subsection (6)(c) of this section establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

(8) An electronic transmission is received under this section even if no person is aware of its receipt.

(9) A notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:

(a) If in a physical form, the earliest of when it is actually received, or when it is left at:

(i) A shareholder's address as it appears in the corporation's records;

(ii) A director's residence or usual place of business; or

(iii) The corporation's principal office;

(b) If mailed to a shareholder, upon deposit in the United States mail with first-class postage prepaid and correctly addressed to the shareholder's mailing address as it appears in the corporation's records;

(c) If mailed to a recipient other than a shareholder, the earliest of when it is actually received, or:

(i) If sent by registered or certified mail, return receipt requested, the date shown on the return receipt signed by or on behalf of the addressee; or

(ii) Five days after it is deposited in the United States mail with first-class postage prepaid and correctly addressed to the recipient;

(d) If sent by air courier, when dispatched and correctly addressed to a shareholder's mailing address as it appears in the corporation's records;

(e) If an electronic transmission, when it is received as provided in subsection (6) of this section; and

(f) If oral, when communicated.

(10) A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if:

(a) The electronic transmission is otherwise retrievable in perceivable form; and

(b) The sender and the recipient have consented in writing to the use of such form of electronic transmission.

(11) Notwithstanding anything to the contrary in this section or any other section of this title, if this title requires that a notice to shareholders be accompanied by certain material, a public company may satisfy such a requirement, whether or not a shareholder has consented to receive electronically transmitted notice, by ((+)) (a) posting the material on an electronic network (either separate from, or in combination or as part of, any other materials the public company has posted on the electronic network in compliance with applicable federal law) at or prior to the time that the notice is delivered to the public company's shareholders entitled to receive the notice, and ((+)) (b) delivering to the public company's shareholders entitled to receive the notice a separate record of the posting (which record may accompany, or be contained in, the notice), together with comprehensible instructions regarding how to obtain access to the posting on the electronic network. In such a case, the material is deemed to have been delivered to the public company's shareholders at the time the notice to the shareholders is effective under this section. A public company that elects pursuant to this section to post on an electronic network any material required by this title to accompany a notice to shareholders is required, at its expense, to provide a copy of the material in a tangible medium (alone or in combination or as part of any other materials the public company has posted on the electronic network in compliance with federal law) to any shareholder entitled to such a notice who so requests.

((3) Effective time and date of notice:

(a) Oral notice. Oral notice is effective when received.

(b) Notice provided in a tangible medium.

(i) Notice in a tangible medium, if in a comprehensible form, is effective at the earliest of the following:

(A) If expressly authorized by the articles of incorporation or bylaws, and if notice is sent to the person's address, telephone number, or other number appearing on the records of the corporation, when dispatched by telegraph, teletype, or facsimile equipment;

(B) When received;

(C) Except as provided in (b)(ii) of this subsection, five days after its deposit in the United States mail, as evidenced by the postmark, if mailed with first-class postage, prepaid and correctly addressed; or

(D) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(ii) Notice in a tangible medium by a domestic or foreign corporation to its shareholder, if in a comprehensible form and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders, is effective:

(A) When mailed, if mailed with first-class postage prepaid; and

(B) When dispatched, if prepaid, by air courier.

(iii) Notice in a tangible medium to a domestic or foreign corporation, authorized to transact business in this state, may be addressed to the corporation's registered agent or to the corporation or its secretary at its principal office shown in its most recent annual report, or in the case of a foreign corporation that has not yet delivered its annual report in its foreign registration statement.

(e) Notice provided in an electronic transmission. Notice provided in an electronic transmission, if in comprehensible form, is effective when it: (i) Is electronically transmitted to an address, location, or system designated by the recipient for that purpose; or (ii) has been posted on an electronic network and a separate record of the posting has been delivered to the recipient together with comprehensible instructions regarding how to obtain access to the posting on the electronic network.

(4)) (12) If this title prescribes ((notice)) requirements for notices or other communications in particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe ((notice)) requirements for notices or other communications, not inconsistent with this section or other provisions of this title, those requirements govern. The articles of incorporation or bylaws may authorize or require delivery of notices of meetings of directors by electronic transmission.

(13) In the event that any provisions of this title are deemed to modify, limit, or supersede the federal electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., the provisions of this title will control to the maximum extent permitted by section 102(a)(2) of that federal act.

Sec. 41. RCW 23B.01.420 and 2003 c 35 s 1 are each amended to read as follows:

(1) A corporation has ((provided)) delivered written notice or any other ((record to)) report or statement to all shareholders of record who share a common address if all of the following requirements are met:

(a) The corporation delivers one copy of the notice ((or other record)), report, or statement to the common address;

(b) The corporation addresses the notice (~~((or other record))~~), report, or statement to the shareholders who share that address either as a group or to each of the shareholders individually; and

(c) Each of those shareholders consents (~~(in a record)~~) to delivery of a single copy of such ~~((a))~~ notice (~~((or other record))~~), report, or statement to the shareholders' common address, and the corporation notifies each shareholder of the duration of that shareholder's consent, and explains the manner by which the shareholder can revoke the consent.

(2) For purposes of this section, "address" means a street address, a post office box number, a facsimile telephone number, ~~((a common))~~ an address, location, or system for electronic transmissions, an email address, or another similar destination to which records are delivered.

(3) If a shareholder (~~(revokes)~~) delivers written notice of revocation to consent to delivery of a single copy of any notice (~~((or other record))~~), report, or statement to a common address, or (~~(notifies)~~) delivers written notice to the corporation that the shareholder wishes to receive an individual copy of any notice (~~((or other record))~~), report, or statement, the corporation shall begin sending individual copies to that shareholder within thirty days after (~~(the corporation receives the revocation of consent or)~~) delivery of the written notice.

(4) Prior to the delivery of notice by electronic transmission to a common address, (~~(location, or system for electronic transmissions under this section,))~~ each shareholder consenting to receive notice under this section must also have consented to the receipt of notices by electronic transmission as provided in RCW 23B.01.410.

Sec. 42. RCW 23B.02.050 and 2015 c 176 s 2113 are each amended to read as follows:

(1) After incorporation:

(a) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

(b) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators:

(i) To elect directors and complete the organization of the corporation; or

(ii) To elect a board of directors who shall complete the organization of the corporation.

(2) Corporate action required or permitted by this title to be approved by incorporators at an organizational meeting may be approved without a meeting if the approval is evidenced by (~~(the consent of each of the incorporators in the form of a record)~~) one or more written consents describing the corporate action so approved and executed by each incorporator.

(3) An organizational meeting may be held in or out of this state.

(4) A corporation must deliver an initial report to the secretary of state in accordance with RCW 23.95.255.

Sec. 43. RCW 23B.06.200 and 1989 c 165 s 48 are each amended to read as follows:

(1) A written subscription for shares entered into before incorporation is irrevocable for six months unless the subscription agreement provides a longer or shorter period or all the subscribers agree to revocation.

(2) The board of directors may determine the payment terms of subscriptions for shares that were entered into before incorporation, unless the subscription agreement specifies them. A call for payment by the board of directors must be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

(3) Shares issued pursuant to subscriptions entered into before incorporation are fully paid and nonassessable when the corporation receives the consideration specified in the subscription agreement.

(4) If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid more than twenty days after the corporation ~~((sends))~~ delivers a written demand for payment to the subscriber.

(5) A subscription agreement entered into after incorporation is a contract between the subscriber and the corporation subject to RCW 23B.06.210.

Sec. 44. RCW 23B.06.250 and 1989 c 165 s 53 are each amended to read as follows:

(1) Shares may, but need not, be represented by certificates. Unless this title or another statute expressly provides otherwise, the rights and obligations of shareholders are identical regardless of whether ~~((or not))~~ their shares are represented by certificates.

(2) At a minimum each share certificate must state on its face:

(a) The name of the issuing corporation and that it is organized under the laws of this state;

(b) The name of the person to whom issued; and

(c) The number and class of shares and the designation of the series, if any, the certificate represents.

(3) If the issuing corporation is authorized to issue different classes of shares or different series within a class, the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series, and the authority of the board of directors to determine variations for future series, must be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder this information without charge on request in writing.

(4) Each share certificate (a) must be ~~((signed, either manually or in facsimile,))~~ executed by two officers designated in the bylaws or by the board of directors and (b) may bear the corporate seal or its facsimile.

(5) If the person who ~~((signed, either manually or in facsimile,))~~ executed a share certificate no longer holds office when the certificate is issued, the certificate is nevertheless valid.

Sec. 45. RCW 23B.06.260 and 2009 c 189 s 10 are each amended to read as follows:

(1) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may approve the (~~((issue))~~) issuance of some or all of the shares of any or all of its classes or series without certificates. The approval does not affect shares already represented by certificates until they are surrendered to the corporation.

(2) Within a reasonable time after the (~~((issue))~~) issuance or transfer of shares without certificates, the corporation shall (~~((send))~~) deliver to the shareholder a (~~((record))~~) written statement containing the information required on certificates by RCW 23B.06.250 (2) and (3), and, if applicable, RCW 23B.06.270.

Sec. 46. RCW 23B.06.300 and 2019 c 141 s 2 are each amended to read as follows:

(1) The shareholders of a corporation do not have a preemptive right to acquire the corporation's unissued shares except to the extent the articles of incorporation provide otherwise or as set forth in subsection (2) of this section. A statement included in the articles of incorporation that "the corporation elects to have preemptive rights," or words of similar import, means that the provisions set forth in subsection (3) of this section apply except to the extent that the articles of incorporation provide otherwise.

(2) Unless the articles of incorporation provide otherwise, the shareholders of a corporation formed before January 1, 2020, have a preemptive right to acquire the corporation's unissued shares.

(3) If shareholders of a corporation have a preemptive right to acquire the corporation's unissued shares under this section, the following provisions apply:

(a) Unless the articles of incorporation provide otherwise, such preemptive right is granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them.

(b) Unless the articles of incorporation provide otherwise, a shareholder may waive the shareholder's preemptive right. A waiver evidenced by (~~((an executed record))~~) a writing is irrevocable even though it is not supported by consideration.

(c) Unless the articles of incorporation provide otherwise, there is no preemptive right with respect to:

(i) Shares issued as compensation to directors, officers, agents, employees, or other service providers of the corporation, or its subsidiaries or affiliates;

(ii) Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employees of the corporation, or its subsidiaries or affiliates;

(iii) Shares issued pursuant to the corporation's initial plan of financing; and

(iv) Shares issued for consideration other than money.

(d) Unless the articles of incorporation provide otherwise:

(i) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets have no preemptive rights with respect to shares of any class; and

(ii) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets

unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

(e) Unless the articles of incorporation provide otherwise, shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year is subject to the shareholders' preemptive rights.

(f) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

Sec. 47. RCW 23B.07.010 and 2018 c 55 s 1 are each amended to read as follows:

(1) Except as provided in subsections (2) and (6) of this section, a corporation shall hold a meeting of shareholders annually for the election of directors at a time stated in or fixed in accordance with the bylaws.

(2)(a) If the articles of incorporation or the bylaws of a corporation registered as an investment company under the investment company act of 1940 so provide, the corporation is not required to hold an annual meeting of shareholders in any year in which the election of directors is not required by the investment company act of 1940.

(b) If a corporation is required under (a) of this subsection to hold an annual meeting of shareholders to elect directors, the meeting shall be held no later than one hundred twenty days after the occurrence of the event requiring the meeting.

(3) Subject to subsection (4) of this section:

(a) Annual shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws; and

(b) If no place is stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office.

(4) Unless the articles of incorporation or bylaws provide otherwise, if the board of directors or another person is authorized in the bylaws to determine the place of annual meetings, the board of directors or such other person may, in the sole discretion of the board of directors or such other person, determine that an annual meeting will not involve a physical assembly of shareholders at a particular geographic location, but instead will be held solely by means of remote communication, in accordance with RCW 23B.07.080.

(5) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

(6) Shareholders may (~~act by consent set forth in a record to~~) elect directors by written consent as permitted by RCW 23B.07.040 in lieu of holding an annual meeting.

Sec. 48. RCW 23B.07.020 and 2018 c 55 s 2 are each amended to read as follows:

(1) A corporation shall hold a special meeting of shareholders:

(a) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

(b) Except as set forth in subsections (2) and (3) of this section, if ~~((the holders of))~~ shareholders holding at least ten percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting execute, date, and deliver to the ~~((corporation's secretary))~~ corporation one or more written demands ~~((set forth in an executed and dated record))~~ for the meeting describing the purpose or purposes for which it is to be held ~~((which demands shall be set forth either (i) in an executed record or (ii) if the corporation has designated an address, location, or system to which the demands may be electronically transmitted and the demands are electronically transmitted to that designated address, location, or system, in an executed electronically transmitted record))~~.

(2) The right of shareholders of a public company to call a special meeting may be limited or denied to the extent provided in the articles of incorporation.

(3) If the corporation is other than a public company, the articles of incorporation or bylaws may require the demand specified in subsection (1)(b) of this section be made by a greater percentage, not in excess of twenty-five percent, of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting.

(4) If not otherwise fixed under RCW 23B.07.030 or 23B.07.070, the record date for determining shareholders entitled to demand a special meeting is the ~~((date of delivery of the))~~ first date on which an executed shareholder demand ~~((in compliance with subsection (1) of this section))~~ is delivered to the corporation.

(5) Subject to subsection (6) of this section:

(a) Special shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws; and

(b) If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(6) Unless the articles of incorporation or bylaws provide otherwise, if the board of directors or another person is authorized in the bylaws to determine the place of special meetings, the board of directors or such other person may, in the sole discretion of the board of directors or such other person, determine that a special meeting will not involve a physical assembly of shareholders at a particular geographic location, but instead will be held solely by means of remote communication, in accordance with RCW 23B.07.080.

(7) Only business within the purpose or purposes described in the meeting notice required by RCW 23B.07.050(3) may be conducted at a special shareholders' meeting.

Sec. 49. RCW 23B.07.035 and 2007 c 467 s 6 are each amended to read as follows:

(1) A corporation having any shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association shall, and any other corporation may, appoint one or more inspectors to act at a meeting of shareholders ~~((and make a written report of the inspectors' determinations))~~ in connection with determining voting results. Each inspector shall ~~((take and sign an oath))~~ verify in writing that the inspector will faithfully ~~((to))~~ execute the duties of inspector with strict impartiality and according to the best of the inspector's ability.

(2) The inspectors shall:

(a) Ascertain the number of shares outstanding and the voting power of each;

(b) Determine the shares represented at a meeting;

(c) Determine the validity of (~~(proxies)~~) proxy appointments and ballots;

(d) Count (~~(all)~~) the votes and ballots; and

(e) (~~(Determine)~~) Make a written report of the results.

(3) An inspector may be an officer or employee of the corporation.

(4) If no challenge of a determination by the inspectors is timely made, such determination is conclusive. Challenge of any determination by the inspectors may be made in a court of competent jurisdiction.

Sec. 50. RCW 23B.07.040 and 2009 c 189 s 14 are each amended to read as follows:

(1)(a) Corporate action required or permitted by this title to be approved by a shareholder vote at a meeting may be approved without a meeting or a vote if either:

(i) The corporate action is approved by all shareholders entitled to vote on the corporate action; or

(ii) The corporate action is approved by shareholders holding of record or otherwise entitled to vote in the aggregate not less than the minimum number of votes that would be necessary to approve such corporate action at a meeting at which all shares entitled to vote on the corporate action were present and voted, and at the time the corporate action is approved the corporation is not a public company and is authorized to approve such corporate action under this subsection (1)(a)(ii) by a general or limited authorization contained in its articles of incorporation.

(b) Corporate action may be approved by shareholders without a meeting or a vote (~~(by means of execution of a single consent or multiple counterpart consents by)~~) if the approval is evidenced by one or more written consents:

(i) Executed by shareholders holding of record or otherwise entitled to vote in the aggregate not less than the minimum number of votes necessary under (a)(i) or (ii) of this subsection(~~(-Any such shareholder consent must: (i) Be in the form of an executed record)~~);

(ii) (~~(indicate)~~) Indicating the date of execution (~~(of the consent by each shareholder who executes it)~~), which date must be on or after the applicable record date determined in accordance with subsection (2) of this section;

(iii) (~~(describe)~~) Describing the corporate action being approved; and

(iv) (~~(when)~~) Delivered to the corporation for filing by the corporation with the minutes or corporate records in accordance with subsection (4) of this section. When delivered to each shareholder for execution, the consent must include or be accompanied by the same material that would have been required by this title to be delivered to shareholders in or accompanying a notice of meeting at which the proposed corporate action would have been submitted for shareholder approval(; ~~and (v) be delivered to the corporation for inclusion in the minutes or filing with the corporate records in accordance with subsection (4) of this section).~~ A shareholder may withdraw an executed shareholder consent by delivering a written notice of withdrawal (~~(in the form of an executed record)~~) to the corporation prior to the time when shareholder consents sufficient to approve the corporate action have been delivered to the corporation.

(c) A written consent in the form of an electronic transmission must contain or be accompanied by information from which the corporation can determine that the electronic transmission was transmitted by the shareholder and the date on which the shareholder transmitted the electronic transmission.

(2) The record date for determining shareholders entitled to approve a corporate action without a meeting may be fixed under RCW 23B.07.030 or 23B.07.070, but if not so fixed shall be the date of execution indicated on the earliest dated shareholder consent executed under subsection (1) of this section, even though such shareholder consent may not have been delivered to the corporation on that date.

(3)(a) Notice that shareholder consents are being sought under subsection (1)(a) of this section (~~((shall))~~) must be given, by the corporation or by another person soliciting such consents, on or promptly after the record date, to all shareholders entitled to vote on the record date who have not yet executed the shareholder consent and, if this title would otherwise require that notice of a meeting of shareholders to consider the proposed corporate action be given to nonvoting shareholders, to all nonvoting shareholders as of the record date. Notice given under this subsection (3)(a) (~~((shall))~~) must include or be accompanied by the same information required to be included in or to accompany the shareholder consent under subsection (1)(b)(iii) and (iv) of this section.

(b) Notice that sufficient (~~((shareholder))~~) written consents have been executed to approve the proposed corporate action under either of subsection (1)(a)(i) or (ii) of this section (~~((shall))~~) must be given by the corporation, promptly after delivery to the corporation of (~~((shareholder))~~) written consents sufficient to approve the corporate action in accordance with subsection (4) of this section, to all shareholders entitled to vote on the record date and, if this title would otherwise require that notice of a meeting of shareholders to consider the proposed corporate action be given to nonvoting shareholders, to all nonvoting shareholders as of the record date.

(4) Unless the consent executed by shareholders specifies a later time as the time at which the approval of the corporate action is to be effective (~~((date))~~), shareholder approval obtained under this section is effective when:

(a) Executed shareholder consents sufficient to approve the proposed corporate action have been delivered to the corporation (~~((, either at an address designated by the corporation for delivery of such shareholder consents or at the corporation's registered office, or to such electronic address, location, or system as the corporation may have designated for delivery of such shareholder consents))~~) in any manner authorized by RCW 23B.01.410; and

(b) (~~((any))~~) Any period of advance notice required by the corporation's articles of incorporation to be given to any nonconsenting shareholders has been satisfied. (~~((Executed shareholder consents are not))~~) No written consent is effective to approve a proposed corporate action unless, within sixty days after the earliest date (~~((of the earliest dated shareholder))~~) on which a consent delivered to the corporation as required by this section was executed, written consents executed by a sufficient number of shareholders to approve the corporate action are delivered to the corporation.

(5) Approval of corporate action by (~~((execution of shareholder))~~) written consents under this section has the effect of a meeting vote and may be described

as such in any ~~((record))~~ document, except that, if the corporate action requires the filing of a certificate under any other section of this title, the certificate so filed shall state, in lieu of any statement required by that section concerning any vote of shareholders, that shareholder approval has been obtained in accordance with this section and that notice to any nonconsenting shareholders has been given to the extent required by this section.

Sec. 51. RCW 23B.07.060 and 2009 c 189 s 15 are each amended to read as follows:

(1) A shareholder may waive any notice required by this title, the articles of incorporation, or bylaws before or after the date and time ~~((of the meeting that is the subject of such))~~ stated in the notice, or in the case of notice required by RCW 23B.07.040(3), before or after the corporate action to be approved by ~~((executed))~~ written consent becomes effective. Except as provided by subsections (2) and (3) of this section, the waiver must be ~~((delivered))~~ in writing, be executed by the shareholder entitled to the notice, and be delivered to the corporation for ~~((inclusion in))~~ filing by the corporation with the minutes or ~~((filing with the))~~ corporate records~~((, which waiver shall be set forth either (a) in an executed and dated record or (b) if the corporation has designated an address, location, or system to which the waiver may be electronically transmitted and the waiver is electronically transmitted to the designated address, location, or system, in an executed and dated electronically transmitted record))~~.

(2) A shareholder's attendance at a meeting waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

(3) A shareholder waives objection to consideration of a particular matter at a meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

Sec. 52. RCW 23B.07.200 and 2009 c 189 s 17 are each amended to read as follows:

(1) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders on the record date who are entitled to notice of a shareholders' meeting. The list must be arranged by voting group, and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder. Nothing contained in this section requires the corporation to include on such list the electronic mail address or other electronic contact information of a shareholder.

(2) The shareholders' list must be available for inspection by any shareholder, beginning ten days prior to the meeting and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholder, the shareholder's agent, or the shareholder's attorney is entitled to inspect the list, during regular business hours and at the shareholder's expense, during the period it is available for inspection.

(3) The corporation shall make the shareholders' list available at the meeting, and any shareholder, the shareholder's agent, or the shareholder's

attorney is entitled to inspect the list at any time during the meeting or any adjournment.

(4) If the corporation refuses to allow a shareholder, the shareholder's agent, or the shareholder's attorney to inspect the shareholders' list before or at the meeting, the superior court of the county where a corporation's principal office, or, if none in this state, its registered office, is located, on application of the shareholder, may summarily order the inspection at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection is complete.

(5) A shareholder's right to copy the shareholders' list, and a shareholder's right to otherwise inspect and copy the record of shareholders, is governed by RCW 23B.16.020(3).

(6) Refusal or failure to prepare or make available the shareholders' list does not affect the validity of corporate action approved at the meeting.

Sec. 53. RCW 23B.07.220 and 2002 c 297 s 25 are each amended to read as follows:

(1) A shareholder may vote the shareholder's shares in person or by proxy.

(2) A shareholder or the shareholder's agent or attorney-in-fact may appoint a proxy to vote or otherwise act for the shareholder by(:

~~(a) Executing a writing authorizing another person or persons to act for the shareholder as proxy. Execution may be accomplished by the shareholder or the shareholder's authorized officer, director, employee, or agent signing the writing or causing his or her signature to be affixed to the writing by any reasonable means including, but not limited to, by facsimile signature; or~~

~~(b) Authorizing another person or persons to act for the shareholder as proxy by transmitting or authorizing the transmission of a recorded telephone call, voice mail, or other electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization, or like agent duly authorized by the person who will be the holder of the proxy to receive the transmission, provided that the transmission must either set forth or be submitted with information, including any security or validation controls used, from which it can reasonably be determined that the transmission was authorized by the shareholder. If it is determined that the transmission is valid, the inspectors of election or, if there are no inspectors, any officer or agent of the corporation making that determination on behalf of the corporation shall specify the information upon which they relied. The corporation shall require the holders of proxies received by transmission to provide to the corporation copies of the transmission and the corporation shall retain copies of the transmission for a reasonable period of time after the election provided that they are retained for at least sixty days)) executing an appointment form, or by an electronic transmission. An electronic transmission must contain or be accompanied by information from which the recipient can determine the date of the transmission and that the transmission was authorized by the sender or the sender's agent or attorney-in-fact.~~

(3) An appointment of a proxy is effective when ~~((a signed))~~ an executed appointment form or ~~((telegram, cablegram, recorded telephone call, voice mail, or other))~~ an electronic transmission of the appointment is received by the inspector~~((s))~~ of election or the officer or agent of the corporation authorized to tabulate votes. An appointment is valid for ~~((eleven months unless a longer~~

~~period is expressly~~) the term provided in the appointment form or electronic transmission, and, if no term is provided, is valid for eleven months unless the appointment is irrevocable under subsection (4) of this section.

(4) An appointment of a proxy is revocable by the shareholder unless the appointment (~~((indicates))~~) form or electronic transmission states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include the appointment of:

- (a) A pledgee;
- (b) A person who purchased or agreed to purchase the shares;
- (c) A creditor of the corporation who extended it credit under terms requiring the appointment;
- (d) An employee of the corporation whose employment contract requires the appointment; or
- (e) A party to a voting agreement created under RCW 23B.07.310.

(5) The death or incapacity of the shareholder appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the officer or agent of the corporation authorized to tabulate votes before the proxy exercises the proxy's authority under the appointment.

(6) An appointment made irrevocable under subsection (4) of this section is revoked when the interest with which it is coupled is extinguished.

(7) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if the transferee did not know of its existence when the transferee acquired the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(8) Subject to RCW 23B.07.240 and to any express limitation on the proxy's authority stated in the appointment form or (~~((recorded telephone call, voice mail, or other))~~) electronic transmission, a corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

~~((9) For the purposes of this section only, "sign" or "signature" includes any manual, facsimile, conformed, or electronic signature.))~~

Sec. 54. RCW 23B.07.240 and 2002 c 297 s 26 are each amended to read as follows:

(1) If the name executed on a vote, ballot, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the corporation, if acting in good faith, is entitled to accept the vote, ballot, consent, waiver, or proxy appointment and give it effect as the act of the shareholder.

(2) If the name executed on a vote, ballot, consent, waiver, or proxy appointment does not correspond to the name of its shareholder, the corporation, if acting in good faith, is nevertheless entitled to accept the vote, ballot, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if:

(a) The shareholder is an entity and the name executed purports to be that of an officer, partner, or agent of the entity;

(b) The name executed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, ballot, consent, waiver, or proxy appointment;

(c) The name executed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(d) The name executed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to (~~(sign)~~) execute for the shareholder has been presented with respect to the vote, ballot, consent, waiver, or proxy appointment; or

(e) Two or more persons are the shareholder as cotenants or fiduciaries and the name executed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(3) The corporation is entitled to reject a vote, ballot, consent, waiver, or proxy appointment if the (~~(secretary or other officer or agent)~~) person authorized to (~~(tabulate)~~) count votes, acting in good faith, has reasonable basis for doubt about the validity of its execution.

(4) (~~(The)~~) Neither the corporation ((and its officer or agent who)) nor the person authorized to count votes, including an inspector of election under RCW 23B.07.035, that accepts or rejects a vote, ballot, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section or RCW 23B.07.220(2) (~~(are not)~~) is liable in damages to the shareholder for the consequences of the acceptance or rejection.

(5) Corporate action based on the acceptance or rejection of a vote, ballot, consent, waiver, or proxy appointment under this section, or RCW 23B.07.220(2) is valid unless a court of competent jurisdiction determines otherwise.

Sec. 55. RCW 23B.07.300 and 2017 c 28 s 15 are each amended to read as follows:

(1) One or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by (~~(signing)~~) executing an agreement setting out the provisions of the trust, which may include anything consistent with its purpose, and transferring their shares to the trustee. When a voting trust agreement is (~~(signed)~~) executed, the trustee shall prepare a list of the names and addresses of all voting trust beneficial owners, together with the number and class of shares each voting trust beneficial owner transferred to the trust, and deliver copies of the list and agreement to the corporation's principal office.

(2) A voting trust becomes effective on the date the first shares subject to the trust are registered in the trustee's name.

(3) Limits, if any, on the duration of a voting trust are to be as set forth in the voting trust agreement. A voting trust that became effective when this section limited the term of a voting trust to ten years will remain governed by the provisions of this section then in effect relating to the duration of voting trusts, unless the voting trust agreement is amended to provide otherwise by unanimous agreement of the parties to that agreement.

Sec. 56. RCW 23B.07.310 and 1989 c 165 s 78 are each amended to read as follows:

(1) Two or more shareholders may provide for the manner in which they will vote their shares by ~~((signing))~~ executing an agreement for that purpose. A voting agreement created under this section is not subject to the provisions of RCW 23B.07.300.

(2) A voting agreement created under this section is specifically enforceable.

Sec. 57. RCW 23B.07.320 and 2017 c 28 s 16 are each amended to read as follows:

(1) An agreement among the shareholders of a corporation that is not contrary to public policy and that complies with this section is effective among the shareholders and the corporation even though it is inconsistent with one or more other provisions of this title in that it:

(a) Eliminates the board of directors or restricts the discretion or powers of the board of directors;

(b) Governs the approval or making of distributions whether or not in proportion to ownership of shares, subject to the limitations in RCW 23B.06.400;

(c) Establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal;

(d) Governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including use of weighted voting rights or director proxies;

(e) Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or employee of the corporation or among any of them;

(f) Transfers to one or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation;

(g) Provides a process by which a deadlock among directors or shareholders may be resolved;

(h) Requires dissolution of the corporation at the request of one or more shareholders or upon the occurrence of a specified event or contingency; or

(i) Otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors, and the corporation, or among any of them.

(2) An agreement authorized by this section shall be:

(a) Set forth in a written agreement that is ~~((signed))~~ executed by all persons who are shareholders at the time of the agreement and is made known to the corporation; and

(b) Subject to amendment only by all persons who are shareholders at the time of the amendment, unless the agreement provides otherwise.

(3) The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required by RCW 23B.06.260(2). If at the time of the agreement the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of

the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Unless the agreement provides otherwise, any person who acquires outstanding or newly issued shares in the corporation after an agreement authorized by this section has been effected, whether by purchase, gift, operation of law, or otherwise, is deemed to have assented to the agreement and to be a party to the agreement. A purchaser of shares who is aggrieved because he or she at the time of purchase did not have actual or constructive knowledge of the existence of the agreement may either: (a) Bring an action to rescind the purchase within the earlier of ninety days after discovery of the existence of the agreement or two years after the purchase of the shares; or (b) continue to hold the shares subject to the agreement but with a right of action for any damages resulting from nondisclosure of the existence of the agreement. A purchaser shall be deemed to have constructive knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or prior to the time of purchase of the shares.

(4) An agreement authorized by this section shall cease to be effective when shares of the corporation are listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association.

(5) An agreement authorized by this section that limits the discretion or powers of the board of directors shall relieve the directors of, and impose upon the person or persons in whom such discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement.

(6) The existence or performance of an agreement authorized by this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation even if the agreement or its performance treats the corporation as if it were a partnership or results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

(7) Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares have been issued when the agreement is made.

(8) Limits, if any, on the duration of an agreement governed by this section are to be as set forth in the agreement. An agreement governed by this section that became effective when this section limited the term of such an agreement to ten years unless the agreement provided otherwise will remain governed by the provisions of this section then in effect relating to the duration of agreements among shareholders.

Sec. 58. RCW 23B.08.070 and 2007 c 467 s 3 are each amended to read as follows:

(1) A director may resign at any time by delivering a written notice (~~in the form of an executed~~) of resignation to the board of directors, its chairperson, the president, or the secretary of the corporation.

(2) A (~~notice of~~) resignation is effective (~~when the resignation is delivered unless the resignation specifies a later effective date, or an effective~~

~~date)) as provided in RCW 23B.01.410(9) unless the notice provides for a delayed effectiveness, including effectiveness determined upon ((the happening of an)) a future event or events. A ((notice of)) resignation that is conditioned upon failing to receive a specified vote for election as a director may provide that it is irrevocable.~~

Sec. 59. RCW 23B.08.210 and 2009 c 189 s 24 are each amended to read as follows:

(1) Unless the articles of incorporation or bylaws provide otherwise, corporate action required or permitted by this title to be approved at a board of directors' meeting may be approved without a meeting if the corporate action is approved by all members of the board. The approval of the corporate action must be evidenced by one or more written consents describing the corporate action being approved, executed by each director either before or after the corporate action becomes effective, and delivered to the corporation for inclusion in the minutes or filing with the corporate records(~~(; each of which consents shall be set forth either (a) in an executed record or (b) if the corporation has designated an address, location, or system to which the consents may be electronically transmitted and the consent is electronically transmitted to the designated address, location, or system, in an executed electronically transmitted record))~~).

(2) A written consent in the form of an electronic transmission must contain or be accompanied by information from which the corporation can determine that the electronic transmission was transmitted by the director and the date on which the director transmitted the electronic transmission.

(3) Corporate action is approved under this section when the last director executes the consent.

~~((3))~~ (4) A consent under this section has the effect of a meeting vote and may be described as such in any ~~((record))~~ document.

Sec. 60. RCW 23B.08.230 and 2009 c 189 s 25 are each amended to read as follows:

(1) A director may waive any notice required by this title, the articles of incorporation, or bylaws before or after the date and time stated in the notice, and such waiver shall be equivalent to the giving of such notice. Except as provided by subsection (2) of this section, the waiver must be ~~((delivered))~~ in writing, executed by the director entitled to the notice, and delivered to the corporation for inclusion in the minutes or filing with the corporate records(~~(; which waiver shall be set forth either (a) in an executed record or (b) if the corporation has designated an address, location, or system to which the waiver may be electronically transmitted and the waiver has been electronically transmitted to the designated address, location, or system, in an executed electronically transmitted record))~~).

(2) A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director at the beginning of the meeting, or promptly upon the director's arrival, objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any corporate action approved at the meeting.

Sec. 61. RCW 23B.08.240 and 2009 c 189 s 26 are each amended to read as follows:

(1) Unless the articles of incorporation or bylaws require a greater or lesser number, a quorum of a board of directors consists of a majority of the number of directors specified in or fixed in accordance with the articles of incorporation or bylaws.

(2) Notwithstanding subsection (1) of this section, a quorum of a board of directors may in no event be less than one-third of the number of directors specified in or fixed in accordance with the articles of incorporation or bylaws.

(3) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors.

(4) A director who is present at a meeting of the board of directors when corporate action is approved is deemed to have assented to the corporate action unless: (a) The director objects at the beginning of the meeting, or promptly upon the director's arrival, to holding it or transacting business at the meeting; (b) the director's dissent or abstention as to the corporate action is entered in the minutes of the meeting; or (c) the director delivers written notice of the director's dissent or abstention as to the corporate action to the presiding officer of the meeting before adjournment or to the corporation within a reasonable time after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the corporate action.

Sec. 62. RCW 23B.08.430 and 1989 c 165 s 103 are each amended to read as follows:

(1) An officer may resign at any time by delivering a written notice to the board of directors, its chairperson, or to the appointing officer or the secretary of the corporation. A resignation is effective ((when the notice is delivered unless the notice specifies a later effective date)) as provided in RCW 23B.01.410(9) unless the notice provides for a delayed effectiveness, including effectiveness determined upon a future event or events. If effectiveness of a resignation is stated to be delayed and the board of directors or the appointing officer accepts the delay, the board of directors or the appointing officer may fill the pending vacancy before the delayed effectiveness but the new officer may not take office until the vacancy occurs.

(2) ~~((A))~~ The board of directors may remove any officer at any time with or without cause. An officer or assistant officer((, if appointed by another officer,)) may be removed by ((any officer authorized to appoint officers or assistant officers)):

(a) An appointing officer at any time with or without cause, unless the bylaws or the board of directors provide otherwise; or

(b) Any other officer if authorized by the bylaws or the board of directors.

(3) In this section, "appointing officer" means the officer, including any successor to that officer, who appointed the officer resigning or being removed.

Sec. 63. RCW 23B.08.530 and 1989 c 165 s 108 are each amended to read as follows:

(1) A corporation may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if:

(a) The director (~~(furnishes)~~) delivers to the corporation ((~~a~~) an executed written affirmation of the director's good faith belief that the director has met the standard of conduct described in RCW 23B.08.510; and

(b) The director (~~(furnishes)~~) delivers to the corporation ((~~a~~) an executed written undertaking, executed personally or on the director's behalf, to repay the advance if it is ultimately determined that the director did not meet the standard of conduct.

(2) The undertaking required by subsection (1)(b) of this section must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment.

(3) Authorization of payments under this section may be made by provision in the articles of incorporation or bylaws, by resolution adopted by the shareholders or board of directors, or by contract.

Sec. 64. RCW 23B.09.020 and 2014 c 83 s 10 are each amended to read as follows:

A plan of entity conversion must (~~(be in a record and must)~~) include:

- (1) The name of the domestic corporation before conversion;
- (2) The name and form of the surviving entity after conversion;

(3) The terms and conditions of the conversion, including the manner and basis for converting interests in the domestic corporation into any combination of the interests, shares, obligations, or other securities of the surviving entity or any other entity or into cash or other property in whole or part; and

(4) The organic documents of the surviving entity as they will be in effect immediately after consummation of the conversion.

Sec. 65. RCW 23B.09.030 and 2014 c 83 s 11 are each amended to read as follows:

In the case of an entity conversion of a domestic corporation to an other entity:

(1) The plan of entity conversion must be adopted by the board of directors of the converting entity and the shareholders entitled to vote must approve the plan.

(2) After adopting a plan of entity conversion, the board of directors of the converting entity must submit the plan of entity conversion for approval by its shareholders.

(3) The board of directors must recommend the plan of entity conversion to the shareholders, unless (a) the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation; or (b) RCW 23B.08.245 applies, and in either case the board of directors communicates the basis for so proceeding to the shareholders.

(4) The board of directors may condition its submission of the plan of entity conversion on any basis, including the affirmative vote of holders of a specified percentage of shares held by any group of shareholders not otherwise entitled to vote as a separate voting group on the plan of entity conversion.

(5) In the case of an entity conversion of a domestic corporation to a foreign corporation, in addition to any other voting conditions imposed by the board of directors acting pursuant to subsection (4) of this section, approval of the plan of entity conversion requires the affirmative vote of shareholders that would be required to approve a plan of merger under RCW 23B.11.030, and of each other

voting group entitled under RCW 23B.11.035 or the articles of incorporation to vote separately on a plan of merger. Separate voting by additional voting groups is required on a plan of entity conversion if such voting group or groups would be entitled to vote on a plan of merger under the circumstances described in RCW 23B.11.035. The articles of incorporation may require a greater or lesser vote to approve a plan of entity conversion than that provided in this subsection, or a greater or lesser vote by separate voting groups, so long as the required vote is not less than a majority of all the votes entitled to be cast on the plan of entity conversion and of each other voting group entitled to vote separately on the plan.

(6) In the case of an entity conversion of a domestic corporation to an other entity that is not a foreign corporation, approval of the plan of entity conversion requires the approval of all shareholders of the domestic corporation, whether or not entitled to vote under this title or the articles of incorporation.

(7) If as a result of the conversion one or more shareholders of the domestic corporation would become subject to owner liability for the debts, obligations, or liabilities of any other person or entity, in addition to the approval requirements under subsections (5) and (6) of this section, approval of the plan of entity conversion must also require each such shareholder to execute a separate (~~record-consenting~~) written consent to become subject to such owner liability.

(8) If the approval of the shareholders is to be given at a meeting, the domestic corporation must notify each shareholder, whether or not entitled to vote, of the proposed meeting of shareholders at which the plan of entity conversion is to be submitted for approval in accordance with RCW 23B.07.050. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan of entity conversion and must contain or be accompanied by a copy or summary of the plan of entity conversion. The notice must include or be accompanied by a copy of the organic documents of the surviving entity as they will be in effect immediately after the conversion.

(9) If any provision of the articles of incorporation, bylaws, or an agreement to which any of the directors or shareholders of the domestic corporation are parties, adopted, or entered into before June 12, 2014, applies to a merger of the domestic corporation, other than a provision that limits or eliminates voting or dissenters' rights, and the document does not refer to an entity conversion of the domestic corporation, the provision is deemed to apply to an entity conversion of the domestic corporation until the provision is subsequently amended.

Sec. 66. RCW 23B.09.040 and 2015 c 176 s 2121 are each amended to read as follows:

(1) After a plan of entity conversion by a domestic corporation converting into an other entity has been adopted and approved as required by this chapter, articles of entity conversion must be (~~signed~~) executed on behalf of the domestic corporation by any officer or other duly authorized representative and must be delivered to the secretary of state for filing.

(2) After the conversion of an other entity into a domestic corporation has been adopted and approved as required by the organic law of the converting entity, articles of entity conversion must be (~~signed~~) executed on behalf of the converting entity by any officer or other duly authorized representative and must be delivered to the secretary of state for filing.

(3) The articles of entity conversion must set forth:

(a) A statement that the converting entity has been converted into the surviving entity;

(b) The name and form of the converting entity before conversion;

(c) The name and form of the surviving entity after conversion, which must be a name that satisfies the requirements of Article 3 of chapter 23.95 RCW if the surviving entity after conversion is a domestic corporation;

(d) Articles of incorporation that comply with RCW 23B.02.020 if the surviving entity after conversion is a domestic corporation;

(e) The date the conversion is effective under the organic law of the surviving entity;

(f) If the converting entity is a domestic corporation, a statement that the conversion was duly approved by the shareholders of the domestic corporation pursuant to RCW 23B.09.030;

(g) If the converting entity is an other entity, a statement that the conversion was duly approved as required by the organic law of the converting entity; and

(h) If the surviving entity is a foreign other entity not authorized to transact business in this state: (i) A statement that the surviving entity consents to service of process pursuant to RCW 23.95.450 in a proceeding to enforce any obligation or the rights of dissenting shareholders of the domestic corporation; and (ii) the street and mailing address of the entity's principal office that may be used for service of process under RCW 23.95.450.

(4) The articles of entity conversion take effect at the effective time provided in RCW 23.95.210. Articles of entity conversion under subsection (1) or (2) of this section may be combined with any required conversion filing under the organic law of the other entity if the combined filing satisfies the requirements of both this section and the organic law of the other entity.

Sec. 67. RCW 23B.09.060 and 2015 c 176 s 2123 are each amended to read as follows:

(1) Unless otherwise provided in a plan of entity conversion of a domestic corporation, after the plan of entity conversion has been adopted and approved as required by this chapter, and at any time before the articles of entity conversion have become effective, the planned conversion may be abandoned by the board of directors without action by the shareholders.

(2) If any entity conversion is abandoned after articles of entity conversion have been filed with the secretary of state but before the entity conversion has become effective, a statement that the entity conversion has been abandoned in accordance with this section, (~~signed~~) executed by an officer or other duly authorized representative, must be delivered to the secretary of state for filing prior to the effective date of the entity conversion and in accordance with RCW 23.95.215. Upon filing, the statement takes effect and the entity conversion is deemed abandoned and may not become effective.

Sec. 68. RCW 23B.13.030 and 2002 c 297 s 35 are each amended to read as follows:

(1) A record shareholder may assert dissenters' rights as to fewer than all the shares registered in the shareholder's name only if the shareholder dissents with respect to all shares beneficially owned by any one person and delivers to the corporation a notice of the name and address of each person on whose behalf the shareholder asserts dissenters' rights. The rights of a partial dissenter under this

subsection are determined as if the shares as to which the dissenter dissents and the dissenter's other shares were registered in the names of different shareholders.

(2) A beneficial shareholder may assert dissenters' rights as to shares held on the beneficial shareholder's behalf only if:

(a) The beneficial shareholder (~~(submits)~~) delivers to the corporation the record shareholder's executed written consent to the dissent not later than the time the beneficial shareholder asserts dissenters' rights (~~(, which consent shall be set forth either (i) in a record or (ii) if the corporation has designated an address, location, or system to which the consent may be electronically transmitted and the consent is electronically transmitted to the designated address, location, or system, in an electronically transmitted record)~~); and

(b) The beneficial shareholder does so with respect to all shares of which such shareholder is the beneficial shareholder or over which such shareholder has power to direct the vote.

Sec. 69. RCW 23B.13.210 and 2009 c 189 s 43 are each amended to read as follows:

(1) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert dissenters' rights must (a) deliver to the corporation before the vote is taken written notice of the shareholder's intent to demand payment for the shareholder's shares if the proposed corporate action is effected, and (b) not vote such shares in favor of the proposed corporate action.

(2) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 is submitted for approval without a vote of shareholders in accordance with RCW 23B.07.040, a shareholder who wishes to assert dissenters' rights must not execute the consent or otherwise vote such shares in favor of the proposed corporate action.

(3) A shareholder who does not satisfy the requirements of subsection (1) or (2) of this section is not entitled to payment for the shareholder's shares under this chapter.

Sec. 70. RCW 23B.13.260 and 2009 c 189 s 46 are each amended to read as follows:

(1) If the corporation does not effect the proposed corporate action within sixty days after the date set for demanding payment and depositing share certificates, the corporation shall return the deposited certificates and release any transfer restrictions imposed on uncertificated shares.

(2) If after returning deposited certificates and releasing transfer restrictions, the corporation wishes to effect the proposed corporate action, it must (~~(send)~~) deliver a new dissenters' notice under RCW 23B.13.220 and repeat the payment demand procedure.

Sec. 71. RCW 23B.13.270 and 2009 c 189 s 47 are each amended to read as follows:

(1) A corporation may elect to withhold payment required by RCW 23B.13.250 from a dissenter unless the dissenter was the beneficial owner of the shares before the date set forth in the dissenters' notice as the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action.

(2) To the extent the corporation elects to withhold payment under subsection (1) of this section, after the effective date of the proposed corporate action, it shall estimate the fair value of the shares, plus accrued interest, and shall pay this amount to each dissenter who agrees to accept it in full satisfaction of the dissenter's demand. The corporation shall ~~((send))~~ deliver with its offer an explanation of how it estimated the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenter's right to demand payment under RCW 23B.13.280.

Sec. 72. RCW 23B.15.090 and 2015 c 176 s 2138 are each amended to read as follows:

The registered agent of a foreign corporation may resign as agent by ~~((signing))~~ executing and delivering to the secretary of state for filing a statement of resignation in accordance with RCW 23.95.445.

Sec. 73. RCW 23B.16.010 and 2015 c 176 s 2142 are each amended to read as follows:

(1) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all corporate actions approved by the shareholders or board of directors by executed consent without a meeting, and a record of all corporate actions approved by a committee of the board of directors exercising the authority of the board of directors on behalf of the corporation.

(2) A corporation shall maintain appropriate accounting records.

(3) A corporation or its agent shall maintain a record of its current shareholders, in a form that permits preparation of a list of the names and mailing addresses of all shareholders, in alphabetical order by class of shares showing the number and class of shares held by each. Nothing contained in this section requires the corporation to include on such list the electronic mail address or other electronic contact information of a shareholder.

(4) A corporation shall maintain its records ~~((in written form or in another))~~ specified in this section in a form capable of conversion into ~~((written))~~ paper form within a reasonable time.

(5) A corporation shall keep a copy of the following records at its principal office:

(a) Its articles or restated articles of incorporation and all amendments to them currently in effect;

(b) Its bylaws or restated bylaws and all amendments to them currently in effect;

(c) The minutes of all shareholders' meetings, and records of all corporate actions approved by shareholders without a meeting, for the past three years;

(d) The financial statements described in RCW 23B.16.200(1), for the past three years;

(e) All written communications ~~((in the form of a record))~~ to shareholders generally within the past three years;

(f) A list of the names and business mailing addresses of its current directors and officers; and

(g) Its initial report or most recent annual report delivered to the secretary of state under RCW 23.95.255.

Sec. 74. RCW 23B.16.020 and 2009 c 189 s 55 are each amended to read as follows:

(1) A shareholder of a corporation is entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in RCW 23B.16.010(5) if the shareholder gives the corporation an executed written notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy.

(2) A shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection (3) of this section and gives the corporation an executed written notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy:

(a) Excerpts from minutes of any meeting of the board of directors, or of any meeting of a committee of the board of directors while exercising the authority of the board of directors, minutes of any meeting of the shareholders, and records of corporate actions approved by the shareholders or board of directors or a committee thereof without a meeting, to the extent not subject to inspection under subsection (1) of this section;

(b) Accounting records of the corporation; and

(c) The record of shareholders.

(3) A shareholder may inspect and copy the records described in subsection (2) of this section only if:

(a) The shareholder's demand is made in good faith and for a proper purpose;

(b) The shareholder describes with reasonable particularity the shareholder's purpose and the records the shareholder desires to inspect; and

(c) The records are directly connected with the shareholder's purpose.

(4) The right of inspection granted by this section may not be abolished or limited by a corporation's articles of incorporation or bylaws.

(5) This section does not affect:

(a) The right of a shareholder to inspect records under RCW 23B.07.200 or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant; or

(b) The power of a court, independently of this title, to compel the production of corporate records for examination.

(6) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or by a nominee on the beneficial owner's behalf.

Sec. 75. RCW 23B.16.030 and 1989 c 165 s 184 are each reenacted and amended to read as follows:

(1) A shareholder's agent or attorney has the same inspection and copying rights as the shareholder.

(2) The corporation may, if reasonable, satisfy the right to copy records under RCW 23B.16.020 ~~((includes, if reasonable, the right to receive copies made by photographic, xerographic,))~~ by furnishing copies by photocopy or other means chosen by the corporation, including furnishing copies ~~((~~it~~))~~

through an electronic ((or other nonwritten form if the shareholder so requests)) transmission.

(3) The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any ((~~records~~)) documents provided to the shareholder. The charge may not exceed the estimated cost of production or reproduction of the ((~~records~~)) documents.

(4) The corporation may comply with a shareholder's demand to inspect the record of shareholders under RCW 23B.16.020(2)(c) by providing the shareholder with a list of its shareholders that was compiled no earlier than the date of the shareholder's demand.

Sec. 76. RCW 23B.16.200 and 2002 c 297 s 47 are each amended to read as follows:

(1) Not later than four months after the close of each fiscal year, and in any event prior to the annual meeting of shareholders, each corporation shall prepare (a) a balance sheet showing in reasonable detail the financial condition of the corporation as of the close of its fiscal year, and (b) an income statement showing the results of its operation during its fiscal year. Such statements may be consolidated or combined statements of the corporation and one or more of its subsidiaries, as appropriate. If financial statements are prepared by the corporation for any purpose on the basis of generally accepted accounting principles, the annual statements must also be prepared, and disclose that they are prepared, on that basis. If financial statements are prepared only on a basis other than generally accepted accounting principles, they must be prepared, and disclose that they are prepared, on the same basis as other reports and statements prepared by the corporation for the use of others.

(2) Upon the written request of a shareholder, the corporation shall promptly deliver to ((~~any~~)) the requesting shareholder a copy of the most recent balance sheet and income statement((~~, which request shall be set forth either (a) in a written record or (b) if the corporation has designated an address, location, or system to which the request may be electronically transmitted and the request is electronically transmitted to the corporation at the designated address, location, or system, in an electronically transmitted record~~)). If prepared for other purposes, the corporation shall also ((~~furnish~~)) deliver to a requesting shareholder upon the written request of that shareholder a statement of sources and applications of funds, and a statement of changes in shareholders' equity, for the most recent fiscal year.

(3) If the annual financial statements are reported upon by a public accountant, the accountant's report must accompany them. If not, the statements must be accompanied by a statement of the president or the person responsible for the corporation's accounting records:

(a) Stating the person's reasonable belief whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

(b) Describing any respects in which the statements were not prepared on a basis of accounting consistent with the basis used for statements prepared for the preceding year.

(4) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or by a nominee on the beneficial owner's behalf.

Sec. 77. RCW 23B.25.040 and 2012 c 215 s 5 are each amended to read as follows:

(1) In addition to the matters required to be set forth in the articles of incorporation pursuant to RCW 23B.02.020 (1) and (2), the articles of incorporation of a social purpose corporation must set forth:

(a) A corporate name for the social purpose corporation that contains the words "social purpose corporation" or "SPC" as an abbreviation of those words;

(b) A statement that the corporation is organized as a social purpose corporation governed by this chapter;

(c) A statement setting forth the general social purpose or purposes for which the corporation is organized pursuant to RCW 23B.25.020;

(d) If the corporation has designated one or more specific social purpose or purposes pursuant to RCW 23B.25.030, a statement setting forth such specific social purpose or purposes; and

(e) A provision that states the following: "The mission of this social purpose corporation is not necessarily compatible with and may be contrary to maximizing profits and earnings for shareholders, or maximizing shareholder value in any sale, merger, acquisition, or other similar actions of the corporation."

(2) In addition to the matters that must be set forth in the articles of incorporation in accordance with subsection (1) of this section and the provisions that may be set forth in the articles of incorporation pursuant to RCW 23B.02.020 (5) and (6), the articles of incorporation of a social purpose corporation may contain the following provisions:

(a) A provision requiring the corporation's directors or officers to consider the impacts of any corporate action or proposed corporate action upon one or more of the social purposes of the corporation;

(b) A provision requiring the corporation to furnish to the shareholders an assessment of the overall performance of the corporation with respect to its social purpose or purposes, prepared in accordance with a third-party standard;

(c) A provision requiring, for any or all corporate actions, the vote of a larger proportion or of all of the shares of any class or series, or the vote or quorum for taking action of a larger proportion or of all of the directors, than is otherwise required by this title or this chapter;

(d) A provision requiring the approval of the shareholders for any corporate action, even though not otherwise required by this title; and

(e) A provision limiting the duration of the corporation's existence to a specified date.

(3) Prior to the issuance of shares, the corporation shall furnish a prospective shareholder with a copy of the articles of incorporation (~~in the form of a record~~).

(4) Prior to the transfer of shares, the transferor shareholder (~~shall give~~) must deliver written notice of the transfer to the corporation. Within a reasonable time after receiving notice, the corporation shall provide the prospective transferee with a copy of the articles of incorporation (~~in the form of a record~~).

Sec. 78. RCW 23B.25.070 and 2012 c 215 s 8 are each amended to read as follows:

(1) Shares issued by a social purpose corporation may but need not be represented by certificates.

(2) If shares are represented by certificates, in addition to the information required on certificates by RCW 23B.06.250 (2) and (3), each share certificate must state on its face the following language in a conspicuous manner:

"This entity is a social purpose corporation organized under Title 23B RCW of the Washington business corporation act. The articles of incorporation of this corporation state one or more social purposes of this corporation. The corporation will furnish the shareholder this information without charge on request in writing."

(3) If shares are not represented by certificates, within a reasonable time after the issue or transfer of such shares, the corporation shall ~~((send))~~ deliver to the shareholder a ~~((record-containing))~~ written statement of the information required on certificates pursuant to RCW 23B.06.260(2) and the language required on certificates by subsection (2) of this section.

Sec. 79. RCW 23B.30.070 and 2017 c 28 s 7 are each amended to read as follows:

(1) If a defective corporate action ratified or validated under this chapter would have required under any other section of this title a ~~((record))~~ document to be filed with the secretary of state, then, whether or not a ~~((record))~~ document was previously filed in respect of that defective corporate action and in lieu of filing the ~~((record))~~ document otherwise required by this title, the corporation shall deliver to the secretary of state for filing articles of validation setting forth:

(a) The defective corporate action that was ratified or validated and, if the defective corporate action involved the purported issuance of putative shares, the number and class or series of putative shares purportedly issued;

(b) The date of the defective corporate action that was ratified or validated and, if the defective corporate action involved the purported issuance of putative shares, the date or dates on which the putative shares were purportedly issued;

(c) The nature of the failure of authorization with respect to the defective corporate action that was ratified or validated;

(d) A statement that the defective corporate action was (i) ratified in accordance with RCW 23B.30.030, including the date on which the board of directors ratified the defective corporate action and the date, if any, on which the shareholders approved the ratification of the defective corporate action, or (ii) validated in accordance with RCW 23B.30.080, including the date on which the court validated the defective corporate action; and

(e) The information required by subsection (2) of this section.

(2) The articles of validation must also contain the following information:

(a) If the corporation previously filed a ~~((record))~~ document in respect of a defective corporate action that was ratified or validated and no changes to that ~~((record))~~ document are required to give effect to the ratification or validation of the defective corporate action in accordance with RCW 23B.30.040(5), the corporation shall (i) describe the ~~((record))~~ document, together with any articles of correction thereto, including its filing date, in the articles of validation, and (ii) attach a copy of the ~~((record))~~ document, together with any articles of correction thereto, to the articles of validation;

(b) If the corporation previously filed a ~~((record))~~ document in respect of a defective corporate action that was ratified or validated and any change to that

~~((record))~~ document is required to give effect to the ratification or validation of the defective corporate action in accordance with RCW 23B.30.040(5), the corporation shall (i) describe the previously filed ~~((record))~~ document, together with any articles of correction thereto, including its filing date, (ii) attach a copy of the ~~((record))~~ document containing all of the information required to be included under the applicable section or sections of this title to give effect to the defective corporate action that was ratified or validated to the articles of validation, and (iii) state the date and time that the ~~((record))~~ filing is deemed to have become effective; or

(c) If the corporation did not previously file a ~~((record))~~ document in respect of a defective corporate action that was ratified or validated and that defective corporate action would have required a filing under any other section of this title, the corporation shall (i) attach a copy of a ~~((record))~~ document containing all of the information required to be included under the applicable section or sections of this title to give effect to the defective corporate action that was ratified or validated to the articles of validation, and (ii) state the date and time that the ~~((record))~~ filing is deemed to have become effective.

(3) Articles of validation that comply with this section supersede any other ~~((record))~~ document in respect of a defective corporate action that was ratified in accordance with RCW 23B.30.030 or validated in accordance with RCW 23B.30.080.

Sec. 80. RCW 24.03.005 and 2015 c 176 s 3101 are each reenacted and amended to read as follows:

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

(1) "An officer of the corporation" means, in connection with the execution of records submitted for filing with the secretary of state, the president, a vice president, the secretary, or the treasurer of the corporation.

(2) "Articles of incorporation" and "articles" mean the original articles of incorporation and all amendments thereto, and includes articles of merger and restated articles.

(3) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated in the articles or bylaws.

(4) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(5) "Conforms to ~~((law,))~~ law," as used in connection with duties of the secretary of state in reviewing records for filing under this chapter, means the secretary of state has determined that the record complies as to form with the applicable requirements of this chapter and Article 2 of chapter 23.95 RCW.

(6) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.

(7) "Deliver" means: (a) Mailing; (b) transmission by facsimile equipment, for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or members; (c) electronic transmission, in accordance with the officer's, director's, or member's consent, for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or members under RCW 24.03.009;

and (d) as prescribed by the secretary of state for purposes of submitting a record for filing with the secretary of state.

(8) "Effective date" means, in connection with a record filing made by the secretary of state, the date on which the filing becomes effective under RCW 23.95.210.

(9) "Electronic transmission" means an electronic communication (a) not directly involving the physical transfer of a record in a tangible medium and (b) that may be retained, retrieved, and reviewed by the sender and the recipient thereof, and that may be directly reproduced in a tangible medium by a sender and recipient.

(10) "Electronically transmitted" means the initiation of an electronic transmission.

(11) "Execute," "executes," or "executed" means with present intent to authenticate or adopt a record:

(a) ~~((signed, with respect to a written record or))~~ To sign or adopt a tangible symbol;

(b) ~~((electronically transmitted along with sufficient information to determine the sender's identity, with respect to an electronic transmission,))~~ To attach to or logically associate with the record an electronic symbol, sound, or process; or

(c) Filed in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state, with respect to a record to be filed with the secretary of state.

(12) "Executed by an officer of the corporation," or words of similar import, means that any record executed by such person shall be and is executed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person making the record submission with the secretary of state and, for the purpose of records filed electronically with the secretary of state, in compliance with the rules adopted by the secretary of state for electronic filing.

(13) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.

(14) "Insolvent" means inability of a corporation to pay debts as they become due in the usual course of its affairs.

(15) "Member" means an individual or entity having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws.

(16) "Not for profit corporation" or "nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.

(17) "Public benefit not for profit corporation" or "public benefit nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors, or officers and that holds a current tax exempt status as provided under 26 U.S.C. Sec. 501(c)(3) or is specifically exempted from the requirement to apply for its tax exempt status under 26 U.S.C. Sec. 501(c)(3).

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

(19) "Registered office" means the address of the corporation's registered agent.

(20) "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.

~~((21) "Writing" does not include an electronic transmission.~~

~~(22) "Written" means embodied in a tangible medium.))~~

Sec. 81. RCW 25.10.011 and 2015 c 176 s 6101 are each amended to read as follows:

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

(1) "Certificate of limited partnership" means the certificate required by RCW 25.10.201, including the certificate as amended or restated.

(2) "Contribution," except in the term "right of contribution," means any benefit provided by a person to a limited partnership in order to become a partner or in the person's capacity as a partner.

(3) "Debtor in bankruptcy" means a person that is the subject of:

(a) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

(b) A comparable order under federal, state, or foreign law governing insolvency.

(4) "Designated office" means the principal office indicated in the limited partnership's most recent annual report, or, if the principal office is not located within this state, the office of the limited partnership's registered agent.

(5) "Distribution" means a transfer of money or other property from a limited partnership to a partner in the partner's capacity as a partner or to a transferee on account of a transferable interest owned by the transferee.

(6) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to RCW 25.10.401(3).

(7) "Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than this state and required by those laws to have one or more general partners and one or more limited partners. "Foreign limited partnership" includes a foreign limited liability limited partnership.

(8) "General partner" means:

(a) With respect to a limited partnership, a person that:

(i) Becomes a general partner under RCW 25.10.371; or

(ii) Was a general partner in a limited partnership when the limited partnership became subject to this chapter under RCW 25.10.911 (1) or (2); and

(b) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a general partner in a limited partnership.

(9) "Limited liability limited partnership," except in the term "foreign limited liability limited partnership," means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership.

(10) "Limited partner" means:

(a) With respect to a limited partnership, a person that:

(i) Becomes a limited partner under RCW 25.10.301; or

(ii) Was a limited partner in a limited partnership when the limited partnership became subject to this chapter under RCW 25.10.911 (1) or (2); and

(b) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.

(11) "Limited partnership," except in the terms "foreign limited partnership" and "foreign limited liability limited partnership," means an entity, having one or more general partners and one or more limited partners, that is formed under this chapter by two or more persons or becomes subject to this chapter under article 11 of this chapter or RCW 25.10.911 (1) or (2). "Limited partnership" includes a limited liability limited partnership.

(12) "Partner" means a limited partner or general partner.

(13) "Partnership agreement" means the partners' agreement, whether oral, implied, in a record, or in any combination, concerning the limited partnership. "Partnership agreement" includes the agreement as amended.

(14) "Person" means 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.

(15) "Person dissociated as a general partner" means a person dissociated as a general partner of a limited partnership.

(16) "Principal office" means the office where the principal executive office of a limited partnership or foreign limited partnership is located, whether or not the office is located in this state.

(17) "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.

(18) "Required information" means the information that a limited partnership is required to maintain under RCW 25.10.091.

(19) "Sign" means, with present intent to authenticate or adopt a record:

(a) To (~~sign with respect to a written record~~) execute or adopt a tangible symbol;

(b) To (~~electronically transmit along with sufficient information to determine the sender's identity with respect to an electronic transmission~~) attach to or logically associate with the record an electronic symbol, sound, or process; or

(c) With respect to a record to be filed with the secretary of state, to comply with the standard for filing with the office of the secretary of state as prescribed by the secretary of state.

(20) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(21) "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.

(22) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.

~~((22))~~ (23) "Transferable interest" means a partner's right to receive distributions.

~~((23))~~ (24) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

Sec. 82. RCW 25.15.006 and 2015 c 188 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) "Agreed value" means the value of the contributions made by a member to the limited liability company. Such value shall equal the amount agreed upon in a limited liability company agreement or, if no value is agreed upon, the value shall be determined based on the records of the limited liability company.

(2) "Certificate of formation" means the certificate of formation required by RCW 25.15.071 and such certificate as amended or restated.

(3) "Distribution" means a transfer of money or other property from a limited liability company to a member in the member's capacity as a member or to a transferee on account of a transferable interest owned by the transferee.

(4) "Execute," "executes," or "executed" means ~~((, with respect to a record, either (a) signed with respect to a written record or (b) electronically transmitted along with sufficient information to determine the sender's identity with respect to an electronic transmission))~~ with present intent to authenticate or adopt a record:

(a) To sign or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(5) "Foreign limited liability company" means an unincorporated entity formed under the law of a jurisdiction other than this state and denominated by that law as a limited liability company.

(6) "Limited liability company" or "domestic limited liability company" means a limited liability company having one or more members or transferees that is formed under this chapter.

(7) "Limited liability company agreement" means the agreement, including the agreement as amended or restated, whether oral, implied, in a record, or in any combination, of the member or members of a limited liability company concerning the affairs of the limited liability company and the conduct of its business.

(8) "Manager" means a person, or a board, committee, or other group of persons, named as a manager of a limited liability company in, or designated as a manager of a limited liability company pursuant to, a limited liability company agreement.

(9) "Manager-managed" means, with respect to a limited liability company, that the limited liability company agreement vests management of the limited liability company in one or more managers.

(10) "Member" means a person who has been admitted to a limited liability company as a member as provided in RCW 25.15.116 and who has not been dissociated from the limited liability company.

(11) "Member-managed" means, with respect to a limited liability company, that the limited liability company is not manager-managed.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited partnership, limited liability company, association, joint

venture, government, governmental subdivision, agency, or instrumentality or any other legal or commercial entity.

(13) "Principal office" means the office, in or out of this state, so designated in the annual report, where the principal executive offices of a domestic or foreign limited liability company are located.

(14) "Professional limited liability company" means a limited liability company that is formed in accordance with RCW 25.15.046 for the purpose of rendering professional service.

(15) "Professional service" means the same as defined under RCW 18.100.030.

(16) "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.

(17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(18) "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.

(19) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, gift, and transfer by operation of law, except as otherwise provided in RCW 25.15.251(6).

~~((19))~~ (20) "Transferable interest" means a member's or transferee's right to receive distributions of the limited liability company's assets.

~~((20))~~ (21) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

Sec. 83. RCW 26.52.030 and 1999 c 184 s 5 are each amended to read as follows:

(1) A person entitled to protection who has a valid foreign protection order may file that order by presenting a certified, authenticated, or exemplified copy of the foreign protection order to a clerk of the court of a Washington court in which the person entitled to protection resides or to a clerk of the court of a Washington court where the person entitled to protection believes enforcement may be necessary. Any out-of-state department, agency, or court responsible for maintaining protection order records, may by facsimile or electronic transmission send a reproduction of the foreign protection order to the clerk of the court of Washington as long as it contains a facsimile or ~~((digital))~~ electronic signature by any person authorized to make such transmission.

(2) Filing of a foreign protection order with a court and entry of the foreign protection order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants are not prerequisites for enforcement of the foreign protection order.

(3) The court shall accept the filing of a foreign protection order without a fee or cost.

(4) The clerk of the court shall provide information to a person entitled to protection of the availability of domestic violence, sexual abuse, and other services to victims in the community where the court is located and in the state.

(5) The clerk of the court shall assist the person entitled to protection in completing an information form that must include, but need not be limited to, the following:

- (a) The name of the person entitled to protection and any other protected parties;
- (b) The name and address of the person who is subject to the restraint provisions of the foreign protection order;
- (c) The date the foreign protection order was entered;
- (d) The date the foreign protection order expires;
- (e) The relief granted under (specify the relief awarded and citations thereto, and designate which of the violations are arrestable offenses);
- (f) The judicial district and contact information for court administration for the court in which the foreign protection order was entered;
- (g) The social security number, date of birth, and description of the person subject to the restraint provisions of the foreign protection order;
- (h) Whether the person who is subject to the restraint provisions of the foreign protection order is believed to be armed and dangerous;
- (i) Whether the person who is subject to the restraint provisions of the foreign protection order was served with the order, and if so, the method used to serve the order;
- (j) The type and location of any other legal proceedings between the person who is subject to the restraint provisions and the person entitled to protection.

An inability to answer any of the above questions does not preclude the filing or enforcement of a foreign protection order.

(6) The clerk of the court shall provide the person entitled to protection with a copy bearing proof of filing with the court.

(7) Any assistance provided by the clerk under this section does not constitute the practice of law. The clerk is not liable for any incomplete or incorrect information that he or she is provided.

Sec. 84. RCW 41.05.014 and 2009 c 201 s 2 are each amended to read as follows:

(1) The ~~((administrator))~~ director may require applications, enrollment forms, and eligibility certification documents for benefits that are administered by the authority under this chapter and ~~((chapters))~~ chapter 70.47 ((and 70.47A)) RCW to be signed by the person submitting them. The ~~((administrator))~~ director may accept electronic signatures.

(2) For the purpose of this section, "electronic signature" means ~~((a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature))~~ an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Sec. 85. RCW 58.09.050 and 2019 c 132 s 6 are each amended to read as follows:

The records of survey to be filed under authority of this chapter shall be processed as follows:

(1)(a) The record of survey filed under RCW 58.09.040(1) shall be an original map, eighteen by twenty-four inches, that is legibly drawn in black ink

on mylar and is suitable for producing legible prints through scanning, microfilming, or other standard copying procedures.

(b) The following are allowable formats for the original that may be used in lieu of the format set forth under (a) of this subsection:

(i) Photo mylar with original signatures;

(ii) Any standard material as long as the format is compatible with the auditor's recording process and records storage system. This format is only allowed in those counties that are excepted from permanently storing the original document as required in RCW 58.09.110(5);

(iii) An electronic version of the original if the county has the capability to accept ~~((a digital signature issued by a certification authority under))~~ electronic signatures which meet the standards provided by the rules adopted by the Washington state board of registration for professional engineers and land surveyors, and can import electronic files into an imaging system. The electronic version shall be a standard raster file format acceptable to the county.

A two inch margin on the left edge and a one-half inch margin on other edges of the map shall be provided. The auditor shall reject for recording any maps not suitable for producing legible prints through scanning, microfilming, or other standard copying procedures.

(2) Information required by RCW 58.09.040(2) shall be filed on a standard form eight and one-half inches by fourteen inches as designed and prescribed by the department of natural resources. The auditor shall reject for recording any records of corner information not suitable for producing legible prints through scanning, microfilming, or other standard copying procedures. An electronic version of the standard form may be filed if the county has the capability to accept ~~((a digital signature issued by a certification authority under))~~ electronic signatures which meet the standards provided by the rules adopted by the Washington state board of registration for professional engineers and land surveyors, and can import electronic files into an imaging system. The electronic version shall be a standard raster file format acceptable to the county.

(3) Two legible prints of each record of survey as required under the provisions of this chapter shall be furnished to the county auditor in the county in which the survey is to be recorded. The auditor, in those counties using imaging systems, may require only the original, and fewer prints, as needed, to meet the requirements of their duties. If any of the prints submitted are not suitable for scanning or microfilming the auditor shall not record the original.

(4) Legibility requirements are set forth in the recorder's checklist under RCW 58.09.110.

Sec. 86. RCW 58.09.110 and 2019 c 132 s 7 are each amended to read as follows:

The auditor shall accept for recording those records of survey and records of corner information that are in compliance with the recorder's checklist as jointly developed by a committee consisting of the survey advisory board and two representatives from the Washington state association of county auditors. This checklist shall be adopted in rules by the department of natural resources.

(1) The auditor shall keep proper indexes of such record of survey by the name of owner and by quarter-quarter section, township, and range, with reference to other legal subdivisions.

(2) The auditor shall keep proper indexes of the record of corner information by section, township, and range.

(3) After entering the recording data on the record of survey and all prints received from the surveyor, the auditor shall send one of the surveyor's prints to the department of natural resources in Olympia, Washington, for incorporation into the statewide survey records repository. However, the county and the department of natural resources may mutually agree to process the original or an electronic version of the original in lieu of the surveyor's print.

(4) After entering the recording data on the record of corner information the auditor shall send a legible copy, suitable for scanning, to the department of natural resources in Olympia, Washington. However, the county and the department of natural resources may mutually agree to process the original or an electronic version of the original in lieu of the copy.

(5) The auditor shall permanently keep the original document filed using storage and handling processes that do not cause excessive deterioration of the document. A county may be excepted from the requirement to permanently store the original document if it has a document scanning, filming, or other process that creates a permanent, archival record that meets or surpasses the standards as adopted in rule by the division of archives and records management in chapter 434-663 or 434-677 WAC. The auditor must be able to provide full-size copies upon request. The auditor shall maintain a copy or image of the original for public reference.

(6) If the county has the capability to accept (~~(a digital signature issued by a certification authority under)~~ electronic signatures which meet the standards provided by the rules adopted by the Washington state board of registration for professional engineers and land surveyors, and can import electronic files into an imaging system), the auditor may accept for recording electronic versions of the documents required by this chapter. The electronic version shall be a standard raster file format acceptable to the county.

(7) This section does not supersede other existing recording statutes.

Sec. 87. RCW 69.41.041 and 2016 c 148 s 7 are each amended to read as follows:

(1) A pharmacy may dispense legend drugs to the resident of a long-term care facility or hospice program on the basis of a written or (~~(digitally)~~) electronically signed prescription or chart order sent via facsimile copy by the prescriber to the long-term care facility or hospice program, and communicated or transmitted to the pharmacy pursuant to RCW 18.64.550.

(2) For the purpose of this section, the terms "long-term care facility," "hospice program," and "chart order" have the meanings provided in RCW 18.64.011.

Sec. 88. RCW 69.41.055 and 2019 c 314 s 13 are each amended to read as follows:

(1) Information concerning an original prescription or information concerning a prescription refill for a legend drug may be electronically communicated between an authorized practitioner and a pharmacy of the patient's choice with no intervening person having access to the prescription drug order pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription or order for a legend drug;

(b) An explicit opportunity for practitioners must be made to indicate their preference on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted. This section does not limit the ability of practitioners and pharmacists to permit substitution by default under a prior-consent authorization;

(c) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(d) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records; and

(e) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.

(2) The electronic (~~or digital~~) signature of the prescribing practitioner's agent on behalf of the prescribing practitioner for a resident in a long-term care facility or hospice program, pursuant to a valid order and authorization under RCW 18.64.550, constitutes a valid electronic communication of prescription information. Such an authorized signature and transmission by an agent in a long-term care facility or hospice program does not constitute an intervening person having access to the prescription drug order.

(3) The commission may adopt rules implementing this section.

Sec. 89. RCW 74.08.055 and 2009 c 201 s 1 are each amended to read as follows:

(1) Each applicant for or recipient of public assistance shall complete and sign a physical application or, if available, electronic application for assistance which shall contain or be verified by a written declaration that it is signed under the penalties of perjury. The department may make electronic applications available. The secretary, by rule and regulation, may require that any other forms filled out by applicants or recipients of public assistance shall contain or be verified by a written declaration that it is made under the penalties of perjury and such declaration shall be in lieu of any oath otherwise required, and each applicant shall be so informed at the time of the signing. The application and signature verification shall be in accordance with federal requirements for that program.

(2) Any applicant for or recipient of public assistance who willfully makes and signs any application, statement, other paper, or electronic record which contains or is verified by a written declaration that it is made under the penalties of perjury and which he or she does not believe to be true and correct as to every material matter is guilty of a class B felony punishable according to chapter 9A.20 RCW.

(3) As used in this section:

(a) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means (~~for use in an~~

~~information system or for transmission from one information system to another).~~

(b) (~~("Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.~~

~~(e))~~ "Sign" includes signing by physical signature, if available, or electronic signature. An application must contain a signature in either physical or, if available, electronic form.

NEW SECTION. Sec. 90. The following acts or parts of acts are each repealed:

- (1) RCW 19.360.010 (Intent) and 2015 c 72 s 1;
- (2) RCW 19.360.020 (State and local agencies—Electronic signatures and records—Use and acceptance) and 2016 c 95 s 2 & 2015 c 72 s 2;
- (3) RCW 19.360.030 (Definition—"Electronic signature"—Use of term) and 2016 c 95 s 3 & 2015 c 72 s 3;
- (4) RCW 19.360.040 (Definition—"Record"—Use of term) and 2016 c 95 s 4 & 2015 c 72 s 4;
- (5) RCW 19.360.050 (Definition—"Electronic"—Use of term) and 2016 c 95 s 5 & 2015 c 72 s 5;
- (6) RCW 19.360.060 (Definitions—"State agency" and "local agency") and 2016 c 95 s 6 & 2015 c 72 s 6;
- (7) RCW 19.400.010 (Intent) and 2019 c 153 s 1;
- (8) RCW 19.400.020 (Definitions) and 2019 c 153 s 2; and
- (9) RCW 19.400.030 (Electronic records—Legal status) and 2019 c 153 s 3.

NEW SECTION. Sec. 91. Sections 1 through 20 of this act constitute a new chapter in Title 1 RCW.

NEW SECTION. Sec. 92. 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.

Passed by the Senate February 12, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 58

[Engrossed Substitute Senate Bill 6063]

DEPARTMENT OF CORRECTIONS--HEALTH CARE ADMINISTRATION

AN ACT Relating to improving department of corrections health care administration; amending RCW 72.10.020; and adding a new section to chapter 72.10 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 72.10 RCW to read as follows:

(1) The department shall establish minimum job qualifications for the position of prison medical director in accordance with best practices.

(2) A candidate for prison medical director must meet the established minimum qualifications to be considered for the position.

(3) The established minimum qualifications shall be reviewed by the department every five years or more frequently as the department deems necessary.

(4) By December 1, 2020, and in compliance with RCW 43.01.036, the department shall report to the appropriate committees of the legislature the minimum job qualifications established and the status of implementing the minimum job qualifications throughout the department's correctional facilities.

Sec. 2. RCW 72.10.020 and 2016 c 197 s 8 are each amended to read as follows:

(1) Upon entry into the correctional system, offenders shall receive an initial medical examination. The department shall prepare a health profile for each offender that includes at least the following information: (a) An identification of the offender's serious medical and dental needs; (b) an evaluation of the offender's capacity for work and recreation; and (c) a financial assessment of the offender's ability to pay for all or a portion of his or her health care services from personal resources or private insurance.

(2)(a) The department may develop and implement a plan for the delivery of health care services and personal hygiene items to offenders in the department's correctional facilities, at the discretion of the secretary, and in conformity with federal law.

(b) To discourage unwarranted use of health care services caused by unnecessary visits to health care providers, offenders shall participate in the costs of their health care services by paying an amount that is commensurate with their resources as determined by the department, or a nominal amount of no less than four dollars per visit, as determined by the secretary. Under the authority granted in RCW 72.01.050(2), the secretary may authorize the superintendent to collect this amount directly from an offender's institution account. All copayments collected from offenders' institution accounts shall be a reduction in the expenditures for offender health care at the department.

(c) Offenders are required to make copayments for initial health care visits that are offender initiated and, by rule adopted by the department, may be charged a copayment for subsequent visits related to the medical condition which caused the initial visit.

(d) No offender may be refused any health care service because of indigence.

(e) At no time shall the withdrawal of funds for the payment of a medical service copayment result in reducing an offender's institution account to an amount less than the level of indigency as defined in chapter 72.09 RCW.

(3)(a) The secretary shall adopt, by rule, a uniform policy relating to the distribution and replenishment of personal hygiene items for inmates incarcerated in all department institutions. The policy shall provide for the initial distribution of adequate personal hygiene items to inmates upon their arrival at an institution.

(b) The acquisition of replenishment personal hygiene items is the responsibility of inmates, except that indigent inmates shall not be denied adequate personal hygiene items based on their inability to pay for them.

(c) The policy shall provide that the replenishment personal hygiene items be distributed to inmates only in authorized quantities and at intervals that reflect prudent use and customary wear and consumption of the items.

(4) To the extent that federal law allows and federal financial participation is available, for the limited purpose of implementing this section, the department, or the department's designee, is authorized to act on behalf of an inmate for purposes of applying for medicaid eligibility.

(5) The following become a debt and are subject to RCW 72.09.450:

(a) All copayments under subsection (2) of this section that are not collected when the visit occurs; and

(b) All charges for replenishment personal hygiene items that are not collected when the item is distributed.

(6) The department, in accordance with medically accepted best practices and in consultation with the health care authority, shall develop and implement uniform standards across all of the department's correctional facilities for determining when a patient's current health status requires a referral for consultation or treatment outside the department. These standards must be based on the health care community standard of care to ensure medical referrals for consultation or treatment are timely and promote optimal patient outcomes.

Passed by the Senate February 17, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 59

[Senate Bill 6066]

ETHNIC STUDIES MATERIALS--GRADES KINDERGARTEN THROUGH SIX

AN ACT Relating to ethnic studies materials and resources for public school students in grades kindergarten through six; amending RCW 28A.655.300 and 28A.300.112; amending 2019 c 279 s 4 (uncodified); and providing an expiration date.

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

Sec. 1. RCW 28A.655.300 and 2019 c 279 s 2 are each amended to read as follows:

By September 1, ~~((2020))~~ 2021, the office of the superintendent of public instruction shall ~~((adopt essential academic learning requirements and grade-level expectations that))~~ identify existing state learning standards that address the knowledge and skills that all public school students need to be global citizens in a global society with an appreciation for the contributions of diverse cultures. These ~~((essential academic learning requirements and grade-level expectations))~~ state learning standards must be periodically updated to incorporate best practices in ethnic studies.

Sec. 2. RCW 28A.300.112 and 2019 c 279 s 3 are each amended to read as follows:

(1) By September 1, (~~(2020)~~) 2021, the office of the superintendent of public instruction shall identify and make available ethnic studies materials and resources for use in grades (~~(seven)~~) kindergarten through twelve. The materials and resources must be designed to prepare students to be global citizens in a global society with an appreciation for the contributions of multiple cultures. The materials and resources must be posted on the office of the superintendent of public instruction's web site.

(2)(a) Public schools with students in grades seven through twelve are encouraged to offer an ethnic studies course that incorporates the materials and resources identified under subsection (1) of this section.

(b) Public schools with students in grades kindergarten through six are encouraged to incorporate the materials and resources identified under subsection (1) of this section.

Sec. 3. 2019 c 279 s 4 (uncodified) is amended to read as follows:

(1) The superintendent of public instruction must establish an ethnic studies advisory committee to:

(a) Advise, assist, and make recommendations to the office of the superintendent of public instruction regarding the identification of ethnic studies materials and resources (~~(i) Described under section 3 of this act; and (ii) for use in elementary schools; and~~) under RCW 28A.300.112;

(b) Develop a framework to support the teaching of ethnic studies to students in grades (~~(seven)~~) kindergarten through twelve; and

(c) Consider the need for piloting ethnic studies materials and resources and professional development.

(2) The ethnic studies advisory committee must be composed of a majority of educators with experience in teaching ethnic studies from public high schools and institutions of higher education and educators with experience in age-appropriate ethnic studies curricula, including educators representing the Washington state commissions on African American affairs, Asian Pacific American affairs, and Hispanic affairs.

(3) This section expires June 30, (~~(2021)~~) 2022.

Passed by the Senate February 12, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 60

[Substitute Senate Bill 6074]

FINANCIAL FRAUD AND IDENTITY THEFT CRIMES INVESTIGATION AND PROSECUTION PROGRAM--REAUTHORIZATION

AN ACT Relating to reauthorizing and expanding the financial fraud and identity theft crimes investigation and prosecution program; amending RCW 43.330.300 and 62A.9A-525; repealing 2008 c 290 s 4, 2009 c 565 s 57, 2015 c 65 ss 3 and 4, and 2016 c 202 s 59 (uncodified); and providing an expiration date.

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

Sec. 1. RCW 43.330.300 and 2015 c 65 s 1 are each amended to read as follows:

(1) The financial fraud and identity theft crimes investigation and prosecution program is created in the department of commerce. The department shall:

(a) Appoint members of the financial fraud task forces created in subsection (2) of this section;

(b) Administer the account created in subsection (3) of this section; and

(c) By December 31st of each year submit a report to the appropriate committees of the legislature and the governor regarding the progress of the program and task forces. The report must include information regarding the use of funds and funding needs to facilitate a biennial review of the program's funding. The report must also include recommendations on changes to the program, including expansion.

(2)(a) The department shall establish two regional financial fraud and identity theft crime task forces that include a central Puget Sound task force that includes King, Pierce, and Snohomish counties, and a Spokane county task force. Each task force must be comprised of local law enforcement, county prosecutors, representatives of the office of the attorney general, financial institutions, and other state and local law enforcement.

(b) The department shall appoint: (i) Representatives of local law enforcement from a list provided by the Washington association of sheriffs and police chiefs; (ii) representatives of county prosecutors from a list provided by the Washington association of prosecuting attorneys; and (iii) representatives of financial institutions.

(c) Each task force shall:

(i) Hold regular meetings to discuss emerging trends and threats of local financial fraud and identity theft crimes;

(ii) Set priorities for the activities for the task force;

(iii) Apply to the department for funding to (A) hire prosecutors and/or law enforcement personnel dedicated to investigating and prosecuting financial fraud and identity theft crimes; and (B) acquire other needed resources to conduct the work of the task force;

(iv) Establish outcome-based performance measures; and

(v) Twice annually report to the department regarding the activities and performance of the task force.

(3) The financial fraud and identity theft crimes investigation and prosecution account is created in the state treasury. Moneys in the account may be spent only after appropriation. Revenue to the account may include appropriations, revenues generated by the surcharge imposed in RCW 62A.9A-525, federal funds, and any other gifts or grants. Expenditures from the account may be used only to support the activities of the financial fraud and identity theft crime investigation and prosecution task forces and the program administrative expenses of the department, which may not exceed ten percent of the amount appropriated.

(4) For purposes of this section, "financial fraud and identity theft crimes" includes those that involve: Check fraud, chronic unlawful issuance of bank checks, embezzlement, credit/debit card fraud, identity theft, forgery, counterfeit instruments such as checks or documents, organized counterfeit check rings, and organized identification theft rings.

(5) This section expires July 1, 2030.

Sec. 2. RCW 62A.9A-525 and 2015 c 65 s 2 are each amended to read as follows:

(a) **Filing with department of licensing.** Except as otherwise provided in subsection (b) or (e) of this section, the fee for filing and indexing a record under this part is the fee set by department of licensing rule pursuant to subsection (f) of this section. Without limitation, different fees may be charged for:

(1) A record that is communicated in writing and consists of one or two pages;

(2) A record that is communicated in writing and consists of more than two pages, which fee may be a multiple of the fee described in (1) of this subsection; and

(3) A record that is communicated by another medium authorized by department of licensing rule, which fee may be a fraction of the fee described in (1) of this subsection.

(b) **Filing with other filing offices.** Except as otherwise provided in subsection (e) of this section, the fee for filing and indexing a record under this part that is filed in a filing office described in RCW 62A.9A-501(a)(1) is the fee that would otherwise be applicable to the recording of a mortgage in that filing office, as set forth in RCW 36.18.010.

(c) **Number of names.** The number of names required to be indexed does not affect the amount of the fee in subsections (a) and (b) of this section.

(d) **Response to information request.** The fee for responding to a request for information from a filing office, including for issuing a certificate showing, or otherwise communicating, whether there is on file any financing statement naming a particular debtor, is the fee set by department of licensing rule pursuant to subsection (f) of this section; provided however, if the request is to a filing office described in RCW 62A.9A-501(a)(1) and that office charges a different fee, then that different fee shall apply instead. Without limitation, different fees may be charged:

(1) If the request is communicated in writing;

(2) If the request is communicated by another medium authorized by filing-office rule; and

(3) If the request is for expedited service.

(e) **Record of mortgage.** This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under RCW 62A.9A-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(f) **Filing office rules.** (1) The department of licensing shall by rule set the fees called for in this section for filing with, and obtaining information from, the department of licensing. The director shall set fees at a sufficient level to defray the costs of administering the program. All receipts from fees collected under this title, except fees for services covered under RCW 62A.9A-501(a)(1), shall be deposited to the uniform commercial code fund in the state treasury. Moneys in the fund may be spent only after appropriation and may be used only to administer the uniform commercial code program.

(2) ~~((H))~~ Until July 1, 2030, in addition to fees on filings authorized under this section, the department of licensing shall impose a surcharge of ~~((ten))~~

fifteen dollars per filing for paper filings and a surcharge of ~~((ten))~~ fifteen dollars per filing for electronic filings. The department shall deposit the proceeds from these surcharges in the financial fraud and identity theft crimes investigation and prosecution account created in RCW 43.330.300.

(g) **Transition.** This section continues the fee-setting authority conferred on the department of licensing by former RCW 62A.9-409 and nothing herein shall invalidate fees set by the department of licensing under the authority of former RCW 62A.9-409.

NEW SECTION. **Sec. 3.** The following acts or parts of acts are each repealed:

- (1) 2008 c 290 s 4 (uncodified);
- (2) 2009 c 565 s 57 (uncodified);
- (3) 2015 c 65 s 3 (uncodified);
- (4) 2015 c 65 s 4 (uncodified); and
- (5) 2016 c 202 s 59 (uncodified).

Passed by the Senate February 14, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 61

[Senate Bill 6103]

EDUCATION REPORTING REQUIREMENTS--VARIOUS PROVISIONS

AN ACT Relating to educational reporting requirements; and amending RCW 28A.175.010, 28A.300.540, 28A.300.507, and 28A.150.260.

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

Sec. 1. RCW 28A.175.010 and 2014 c 212 s 4 are each amended to read as follows:

Each school district shall account for the educational progress of each of its students. To achieve this, school districts shall be required to report annually to the superintendent of public instruction:

- (1) For students enrolled in each of a school district's high school programs:
 - (a) The number of students who graduate in fewer than four years;
 - (b) The number of students who graduate in four years;
 - (c) The number of students who remain in school for more than four years but who eventually graduate and the number of students who remain in school for more than four years but do not graduate;
 - (d) The number of students who transfer to other schools;
 - (e) The number of students in the ninth through twelfth grade who drop out of school over a four-year period; and
 - (f) The number of students whose status is unknown.
- (2) Dropout rates of students in each of the grades seven through twelve.
- (3) Dropout rates for student populations in each of the grades seven through twelve by:
 - (a) Ethnicity;
 - (b) Gender;
 - (c) Socioeconomic status;

- (d) Disability status; and
- (e) Identified homeless status.

(4) The causes or reasons, or both, attributed to students for having dropped out of school in grades seven through twelve.

(5) The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to assure uniformity in the information districts are required to report under subsections (1) through (4) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

(6) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

(7) The superintendent of public instruction shall ~~((report))~~ post annually to the ~~((legislature))~~ office's web site the information collected under subsections (1) through (4) of this section.

(8) The Washington state institute for public policy shall calculate an annual estimate of the savings resulting from any change compared to the prior school year in the extended graduation rate. The superintendent shall include the estimate from the institute ~~((in an appendix of the report))~~ on the office's web site as required under subsection (7) of this section, beginning with the 2010 report.

Sec. 2. RCW 28A.300.540 and 2016 c 157 s 4 are each amended to read as follows:

(1) For the purposes of this section, "unaccompanied homeless student" means a student who is not in the physical custody of a parent or guardian and is homeless as defined in RCW 43.330.702(2).

(2) By December 31, 2010, the office of the superintendent of public instruction shall establish a uniform process designed to track the additional expenditures for transporting homeless students, including expenditures required under the McKinney Vento act, reauthorized as Title X, Part C, of the no child left behind act, P.L. 107-110, in January 2002. Once established, the superintendent shall adopt the necessary administrative rules to direct each school district to adopt and use the uniform process and track these expenditures. The superintendent shall post on the superintendent's web site total expenditures related to the transportation of homeless students.

(3)(a) By January 10, 2015, and every ~~((odd-numbered))~~ year thereafter, the office of the superintendent of public instruction shall ~~((report to the governor and the legislature))~~ post to the office's web site the following data for homeless students:

- (i) The number of identified homeless students enrolled in public schools;
- (ii) The number of identified unaccompanied homeless students enrolled in public schools, which number shall be included for each district and the state under "student demographics" on the Washington state report card web site;
- (iii) The number of identified homeless students of color;

(iv) The number of students participating in the learning assistance program under chapter 28A.165 RCW, the highly capable program under chapter 28A.185 RCW, and the running start program under chapter 28A.600 RCW; and

(v) The academic performance and educational outcomes of homeless students and unaccompanied homeless students, including but not limited to the following performance and educational outcomes:

- (A) Student scores on the statewide administered academic assessments;
- (B) English language proficiency;
- (C) Dropout rates;
- (D) Four-year adjusted cohort graduation rate;
- (E) Five-year adjusted cohort graduation rate;
- (F) Absenteeism rates;
- (G) Truancy rates, if available; and
- (H) Suspension and expulsion data.

(b) The data reported under this subsection (3) must include state and district-level information and must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, transitional bilingual, migrant, special education, and gender.

(4) By July 1, 2014, the office of the superintendent of public instruction in collaboration with experts from community organizations on homelessness and homeless education policy, shall develop or acquire a short video that provides information on how to identify signs that indicate a student may be homeless, how to provide services and support to homeless students, and why this identification and support is critical to student success. The video must be posted on the superintendent of public instruction's web site.

(5) By July 1, 2014, the office of the superintendent of public instruction shall adopt and distribute to each school district, best practices for choosing and training school district-designated homeless student liaisons.

Sec. 3. RCW 28A.300.507 and 2016 c 72 s 601 are each amended to read as follows:

(1) A K-12 data governance group shall be established within the office of the superintendent of public instruction to assist in the design and implementation of a K-12 education data improvement system for financial, student, and educator data. It is the intent that the data system reporting specifically serve requirements for teachers, parents, superintendents, school boards, the office of the superintendent of public instruction, the legislature, and the public.

(2) The K-12 data governance group shall include representatives of the education data center, the office of the superintendent of public instruction, the legislative evaluation and accountability program committee, the professional educator standards board, the state board of education, and school district staff, including information technology staff. Additional entities with expertise in education data may be included in the K-12 data governance group.

(3) The K-12 data governance group shall:

(a) Identify the critical research and policy questions that need to be addressed by the K-12 education data improvement system;

(b) Identify reports and other information that should be made available on the internet in addition to the reports identified in subsection (5) of this section;

(c) Create a comprehensive needs requirement document detailing the specific information and technical capacity needed by school districts and the state to meet the legislature's expectations for a comprehensive K-12 education data improvement system as described under RCW 28A.655.210;

(d) Conduct a gap analysis of current and planned information compared to the needs requirement document, including an analysis of the strengths and limitations of an education data system and programs currently used by school districts and the state, and specifically the gap analysis must look at the extent to which the existing data can be transformed into canonical form and where existing software can be used to meet the needs requirement document;

(e) Focus on financial and cost data necessary to support the new K-12 financial models and funding formulas, including any necessary changes to school district budgeting and accounting, and on assuring the capacity to link data across financial, student, and educator systems; and

(f) Define the operating rules and governance structure for K-12 data collections, ensuring that data systems are flexible and able to adapt to evolving needs for information, within an objective and orderly data governance process for determining when changes are needed and how to implement them. Strong consideration must be made to the current practice and cost of migration to new requirements. The operating rules should delineate the coordination, delegation, and escalation authority for data collection issues, business rules, and performance goals for each K-12 data collection system, including:

- (i) Defining and maintaining standards for privacy and confidentiality;
- (ii) Setting data collection priorities;
- (iii) Defining and updating a standard data dictionary;
- (iv) Ensuring data compliance with the data dictionary;
- (v) Ensuring data accuracy; and

(vi) Establishing minimum standards for school, student, financial, and teacher data systems. Data elements may be specified "to the extent feasible" or "to the extent available" to collect more and better data sets from districts with more flexible software. Nothing in RCW 43.41.400, this section, or RCW 28A.655.210 should be construed to require that a data dictionary or reporting should be hobbled to the lowest common set. The work of the K-12 data governance group must specify which data are desirable. Districts that can meet these requirements shall report the desirable data. Funding from the legislature must establish which subset data are absolutely required.

(4)(a) The K-12 data governance group shall provide updates on its work as requested by the education data center and the legislative evaluation and accountability program committee.

(b) The work of the K-12 data governance group shall be periodically reviewed and monitored by the educational data center and the legislative evaluation and accountability program committee.

(5) To the extent data is available, the office of the superintendent of public instruction shall make the following minimum reports available on the internet. The reports must either be run on demand against current data, or, if a static report, must have been run against the most recent data:

(a) ~~((The percentage of data compliance and data accuracy by school district;~~

~~(b) The magnitude of spending per student, by student estimated by the following algorithm and reported as the detailed summation of the following components:~~

~~(i) An approximate, prorated fraction of each teacher or human resource element that directly serves the student. Each human resource element must be listed or accessible through online tunneling in the report;~~

~~(ii) An approximate, prorated fraction of classroom or building costs used by the student;~~

~~(iii) An approximate, prorated fraction of transportation costs used by the student; and~~

~~(iv) An approximate, prorated fraction of all other resources within the district. District-wide components should be disaggregated to the extent that it is sensible and economical;~~

~~(e) The cost of K-12 basic education, per student, by student, by school district, estimated by the algorithm in (b) of this subsection, and reported in the same manner as required in (b) of this subsection;~~

~~(d) The cost of K-12 special education services per student, by student receiving those services, by school district, estimated by the algorithm in (b) of this subsection, and reported in the same manner as required in (b) of this subsection;~~

~~(e) Improvement on the statewide assessments computed as both a percentage change and absolute change on a scale score metric by district, by school, and by teacher that can also be filtered by a student's length of full-time enrollment within the school district;~~

~~(f)) The per-pupil expenditures of federal, state, and local funds including actual personnel expenditures and actual nonpersonnel expenditures of federal, state, and local funds disaggregated by source of funds, for each local educational agency and each school in the state for the preceding fiscal year;~~

~~(b) Number of K-12 students per classroom teacher on a per teacher basis;~~

~~((g) Number of K-12 classroom teachers per student on a per student basis;~~

~~(h) Percentage of a classroom teacher per student on a per student basis;~~

~~(i)) (c) Percentage of classroom teachers per school district and per school disaggregated as described in RCW 28A.300.042(1) for student-level data;~~

~~((j)) (d) Average length of service of classroom teachers per school district and per school disaggregated as described in RCW 28A.300.042(1) for student-level data; ~~(and~~~~

~~(k)) (e) The cost of K-12 education per student by school district sorted by federal, state, and local dollars; and~~

~~(f) Data on student growth to align with the every student succeeds act (129 Stat. 1802; 20 U.S.C. Sec. 6301 et seq.).~~

(6) The superintendent of public instruction shall submit a preliminary report to the legislature by November 15, 2009, including the analyses by the K-12 data governance group under subsection (3) of this section and preliminary options for addressing identified gaps. A final report, including a proposed phase-in plan and preliminary cost estimates for implementation of a comprehensive data improvement system for financial, student, and educator data shall be submitted to the legislature by September 1, 2010.

(7) All reports and data referenced in this section and RCW 43.41.400 and 28A.655.210 shall be made available in a manner consistent with the technical

requirements of the legislative evaluation and accountability program committee and the education data center so that selected data can be provided to the legislature, governor, school districts, and the public.

(8) Reports shall contain data to the extent it is available. All reports must include documentation of which data are not available or are estimated. Reports must not be suppressed because of poor data accuracy or completeness. Reports may be accompanied with documentation to inform the reader of why some data are missing or inaccurate or estimated.

Sec. 4. RCW 28A.150.260 and 2018 c 266 s 101 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2)(a) The distribution formula under this section shall be for allocation purposes only. Except as may be required under subsections (4)(b) and (c) and (9) of this section, chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(b) To promote transparency in state funding allocations, the superintendent of public instruction must report state per-pupil allocations for each school district for the general apportionment, special education, learning assistance, transitional bilingual, highly capable, and career and technical education programs. ~~((The superintendent must also report state general apportionment per-pupil allocations by grade for each school district.))~~ The superintendent must report this information in a user-friendly format on the main page of the office's web site ~~((and on school district apportionment reports))~~. School districts must include a link to the superintendent's per-pupil allocations report on the main page of the school district's web site. In addition, the budget documents published by the legislature for the enacted omnibus operating appropriations act must report statewide average per-pupil allocations for general apportionment and the categorical programs listed in this subsection.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources

needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

- (i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;
- (ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and
- (iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(4)(a)(i) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

	General education average class size
Grades K-3	17.00
Grade 4	27.00
Grades 5-6	27.00
Grades 7-8	28.53
Grades 9-12	28.74

(ii) The minimum class size allocation for each prototypical high school shall also provide for enhanced funding for class size reduction for two laboratory science classes within grades nine through twelve per full-time equivalent high school student multiplied by a laboratory science course factor of 0.0833, based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours in RCW 28A.150.220, and providing at least one teacher planning period per school day:

	Laboratory science average class size
Grades 9-12	19.98

(b)(i) Beginning September 1, 2019, funding for average K-3 class sizes in this subsection (4) may be provided only to the extent of, and proportionate to, the school district's demonstrated actual class size in grades K-3, up to the funded class sizes.

(ii) The office of the superintendent of public instruction shall develop rules to implement this subsection (4)(b).

(c)(i) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

	Career and technical education average class size
Approved career and technical education offered at the middle school and high school level	23.00
Skill center programs meeting the standards established by the office of the superintendent of public instruction	20.00

(ii) Funding allocated under this subsection (4)(c) is subject to RCW 28A.150.265.

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and

(ii) A specialty average class size for advanced placement and international baccalaureate courses.

(5) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

	Element ary School	Middl e School	High School
Principals, assistant principals, and other certificated building-level administrators	1.253	1.353	1.880
Teacher-librarians, a function that includes information literacy, technology, and media to support school library media programs	0.663	0.519	0.523
Health and social services:			
School nurses	0.076	0.060	0.096
Social workers	0.042	0.006	0.015
Psychologists	0.017	0.002	0.007
Guidance counselors, a function that includes parent outreach and graduation advising	0.493	1.216	2.539
Teaching assistance, including any aspect of educational instructional services provided by classified employees	0.936	0.700	0.652
Office support and other noninstructional aides	2.012	2.325	3.269
Custodians	1.657	1.942	2.965

Classified staff providing student and staff safety	0.079	0.092	0.141
Parent involvement coordinators	0.0825	0.00	0.00

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

	Staff per 1,000 K-12 students
Technology	.0.628
Facilities, maintenance, and grounds	.1.813
Warehouse, laborers, and mechanics	.0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs as provided in the 2017-18 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

	Per annual average full-time equivalent student in grades K-12
Technology	\$130.76
Utilities and insurance	\$355.30
Curriculum and textbooks	\$140.39
Other supplies	\$278.05
Library materials	\$20.00
Instructional professional development for certificated and classified staff	\$21.71
Facilities maintenance	\$176.01
Security and central office administration	\$121.94

(b) In addition to the amounts provided in (a) of this subsection, beginning in the 2014-15 school year, the omnibus appropriations act shall provide the following minimum allocation for each annual average full-time equivalent student in grades nine through twelve for the following materials, supplies, and operating costs, to be adjusted annually for inflation:

	Per annual average full-time equivalent student in grades 9-12
Technology	\$36.35
Curriculum and textbooks	\$39.02

Other supplies	\$77.28
Library materials	\$5.56
Instructional professional development for certificated and classified staff	\$6.04

(9) In addition to the amounts provided in subsection (8) of this section and subject to RCW 28A.150.265, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

(a) Exploratory career and technical education courses for students in grades seven through twelve;

(b) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and

(c) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a)(i) To provide supplemental instruction and services for students who are not meeting academic standards through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall provide for each level of prototypical school resources to provide, on a statewide average, 2.3975 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

(ii) In addition to funding allocated under (a)(i) of this subsection, to provide supplemental instruction and services for students who are not meeting academic standards in qualifying schools. A qualifying school means a school in which the three-year rolling average of the prior year total annual average enrollment that qualifies for free or reduced-price meals equals or exceeds fifty percent or more of its total annual average enrollment. The minimum allocation for this additional high poverty-based allocation must provide for each level of prototypical school resources to provide, on a statewide average, 1.1 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher, under RCW 28A.165.055, school districts must distribute the high poverty-based allocation to the schools that generated the funding allocation.

(b)(i) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction for students in grades kindergarten through six and 6.7780 hours per week in extra instruction for students in grades seven through twelve, with fifteen transitional bilingual instruction program students per teacher. Notwithstanding other provisions of this subsection (10), the actual per-student allocation may be scaled to provide a larger allocation for students needing more intensive intervention and a commensurate reduced allocation for

students needing less intensive intervention, as detailed in the omnibus appropriations act.

(ii) To provide supplemental instruction and services for students who have exited the transitional bilingual program, allocations shall be based on the head count number of students in each school who have exited the transitional bilingual program within the previous two years based on their performance on the English proficiency assessment and are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.040(1)(g). The minimum allocation for each prototypical school shall provide resources to provide, on a statewide average, 3.0 hours per week in extra instruction with fifteen exited students per teacher.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on 5.0 percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

Passed by the Senate February 13, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 62

[Senate Bill 6119]

MONEY LAUNDERING FORFEITURE--GAMBLING LAW ENFORCEMENT

AN ACT Relating to authorizing that money laundering forfeited proceeds and property be used for improvement of gambling-related law enforcement activities; and amending RCW 9A.83.030.

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

Sec. 1. RCW 9A.83.030 and 2008 c 6 s 630 are each amended to read as follows:

(1) Proceeds traceable to or derived from specified unlawful activity or a violation of RCW 9A.83.020 are subject to seizure and forfeiture. The attorney general or county prosecuting attorney may file a civil action for the forfeiture of proceeds. Unless otherwise provided for under this section, no property rights exist in these proceeds. All right, title, and interest in the proceeds shall vest in the governmental entity of which the seizing law enforcement agency is a part upon commission of the act or omission giving rise to forfeiture under this section.

(2) Real or personal property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by a superior court that has jurisdiction over the property. Any agency seizing real property shall file a lis pendens concerning the property. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later. Real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant issued pursuant to RCW 69.50.502; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter.

(3) A seizure under subsection (2) of this section commences proceedings for forfeiture. The law enforcement agency under whose authority the seizure was made shall cause notice of the seizure and intended forfeiture of the seized proceeds to be served within fifteen days after the seizure on the owner of the property seized and the person in charge thereof and any person who has a known right or interest therein, including a community property interest. Service

of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail is complete upon mailing within the fifteen-day period after the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the property within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the property seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of property within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The provisions of RCW 69.50.505(5) shall apply to any such hearing. The seizing law enforcement agency shall promptly return property to the claimant upon the direction of the administrative law judge or court.

(6) Disposition of forfeited property shall be made in the manner provided for in RCW 69.50.505 (8) through (10) and (14) or 9.46.231 (6) through (8) and (10).

Passed by the Senate February 5, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 63

[Substitute Senate Bill 6135]

ELECTRIC ENERGY RESOURCES--ADEQUACY--PLANNING

AN ACT Relating to system reliability during the clean energy transformation act implementation; adding a new section to chapter 19.280 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature finds that the Northwest's power system is undergoing significant changes, including the retirement of baseload power generation resources, changes in hydroelectric output, and increases in distributed generation and variable renewable generation. Maintaining the adequacy, sufficiency, and availability of power supply to the growing populace in the Northwest is critical to the future of the region. Additional information sharing and coordination among utilities, planning entities, and state agencies is

necessary to ensure that the region is adapting to the changing power system while maintaining the adequacy, sufficiency, and availability of the power supply for the region.

NEW SECTION. Sec. 2. A new section is added to chapter 19.280 RCW to read as follows:

(1) At least once every twelve months, the department and the commission shall jointly convene a meeting of representatives of the investor-owned utilities and consumer-owned utilities, regional planning organizations, transmission operators, and other stakeholders to discuss the current, short-term, and long-term adequacy of energy resources to serve the state's electric needs, and address specific steps the utilities can take to coordinate planning in light of the significant changes to the Northwest's power system including, but not limited to, technological developments, retirements of legacy baseload power generation resources, and changes in laws and regulations affecting power supply options. The department and commission shall provide a summary of these meetings, including any specific action items, to the governor and legislature within sixty days of the meeting.

(2) This section expires January 1, 2025.

Passed by the Senate February 17, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 64

[Senate Bill 6136]

ELECTRONIC BENEFIT CARDS--USE AT CERTAIN BUSINESSES

AN ACT Relating to updating restrictions on electronic benefit cards; and amending RCW 74.08.580.

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

Sec. 1. RCW 74.08.580 and 2012 c 253 s 2 are each amended to read as follows:

(1) Any person receiving public assistance is prohibited from using electronic benefit cards or cash obtained with electronic benefit cards:

(a) For the purpose of participating in any of the activities authorized under chapter 9.46 RCW;

(b) For the purpose of parimutuel wagering authorized under chapter 67.16 RCW;

(c) To purchase lottery tickets or shares authorized under chapter 67.70 RCW;

(d) For the purpose of participating in or purchasing any activities located in a tattoo, body piercing, or body art shop licensed under chapter 18.300 RCW;

(e) To purchase cigarettes as defined in RCW 82.24.010 or tobacco products as defined in RCW 82.26.010;

(f) To purchase any items regulated under Title 66 RCW; or

(g) For the purpose of purchasing or participating in any activities in any location listed in subsection (2) of this section.

(2) ~~((On or before January 1, 2012,))~~ The following businesses ~~((listed in this subsection))~~ must disable the ability of ATM and point-of-sale machines located on their business premises to accept the electronic benefit card ~~((The following businesses are required to comply with this mandate))~~:

- (a) Taverns licensed under RCW 66.24.330;
- (b) Beer/wine specialty stores licensed under RCW 66.24.371 except if the licensee is an authorized supplemental nutrition assistance program or women, infants, and children retailer;
- (c) Nightclubs licensed under RCW 66.24.600;
- (d) ~~((Contract liquor stores defined under RCW 66.04.010;~~
- ~~((e)))~~ Bail bond agencies regulated under chapter 18.185 RCW;
- ~~((f)))~~ (e) Gambling establishments licensed under chapter 9.46 RCW;
- ~~((g)))~~ (f) Tattoo, body piercing, or body art shops regulated under chapter 18.300 RCW;
- ~~((h)))~~ (g) Adult entertainment venues with performances that contain erotic material where minors under the age of eighteen are prohibited under RCW 9.68A.150; and
- ~~((i)))~~ (h) Any establishments where persons under the age of eighteen are not permitted.

(3) The department must notify the licensing authority of any business listed in subsection (2) of this section that such business has continued to allow the use of the electronic benefit card in violation of subsection (2) of this section.

(4) Only the recipient, an eligible member of the household, or the recipient's authorized representative may use an electronic benefit card or the benefit and such use shall only be for the respective benefit program purposes. Unless a recipient's family member is an eligible member of the household, the recipient's authorized representative, an alternative cardholder, or has been assigned as a protective payee, no family member may use the benefit card. The recipient shall not sell, or attempt to sell, exchange, or donate an electronic benefit card or any benefits to any other person or entity.

(5) The first violation of subsection (1) of this section by a recipient constitutes a class 4 civil infraction under RCW 7.80.120. Second and subsequent violations of subsection (1) of this section constitute a class 3 civil infraction under RCW 7.80.120.

(a) The department shall notify, in writing, all recipients of electronic benefit cards that any violation of subsection (1) of this section could result in legal proceedings and forfeiture of all cash public assistance.

(b) Whenever the department receives notice that a person has violated subsection (1) of this section, the department shall notify the person in writing that the violation could result in legal proceedings and forfeiture of all cash public assistance.

(c) The department shall assign a protective payee to the person receiving public assistance who violates subsection (1) of this section two or more times.

(6) In assigning a personal identification number to an electronic benefit card, the department shall not routinely use any sequence of numbers that appear on the card except in circumstances resulting from in-state or national disasters. Personal identification numbers assigned to electronic benefit cards issued to support the distribution of benefits when there is a disaster may include a sequence of numbers that appears on the card.

Passed by the Senate February 5, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 65

[Senate Bill 6187]

AGENCY DATA BREACH NOTIFICATIONS--LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER

AN ACT Relating to modifying the definition of personal information for notifying the public about data breaches of a state or local agency system; and amending RCW 42.56.590.

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

Sec. 1. RCW 42.56.590 and 2019 c 241 s 5 are each amended to read as follows:

(1) Any agency that owns or licenses data that includes personal information shall disclose any breach of the security of the system to any resident of this state whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the personal information was not secured. Notice is not required if the breach of the security of the system is not reasonably likely to subject consumers to a risk of harm. The breach of secured personal information must be disclosed if the information acquired and accessed is not secured during a security breach or if the confidential process, encryption key, or other means to decipher the secured information was acquired by an unauthorized person.

(2) Any agency that maintains or possesses data that may include personal information that the agency does not own or license 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 the data owner or licensee contacts a law enforcement agency after discovery of a breach of the security of the system and 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 and except under subsection (5) of this section and RCW 42.56.592, 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) Email notice when the agency has an email 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.

(5) 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.

(6) Any agency that is required to issue notification pursuant to this section shall meet all of the following requirements:

(a) The notification must be written in plain language; and

(b) The notification must include, at a minimum, the following information:

(i) The name and contact information of the reporting agency subject to this section;

(ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach;

(iii) A time frame of exposure, if known, including the date of the breach and the date of the discovery of the breach; and

(iv) The toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed personal information.

(7) Any agency that is required to issue a notification pursuant to this section to more than five hundred Washington residents as a result of a single breach shall notify the attorney general of the breach no more than thirty days after the breach was discovered.

(a) The notice to the attorney general must include the following information:

(i) The number of Washington residents affected by the breach, or an estimate if the exact number is not known;

(ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach;

(iii) A time frame of exposure, if known, including the date of the breach and the date of the discovery of the breach;

(iv) A summary of steps taken to contain the breach; and

(v) A single sample copy of the security breach notification, excluding any personally identifiable information.

(b) The notice to the attorney general must be updated if any of the information identified in (a) of this subsection is unknown at the time notice is due.

(8) Notification to affected individuals must be made in the most expedient time possible, without unreasonable delay, and no more than thirty calendar days after the breach was discovered, unless the delay is at the request of law enforcement as provided in subsection (3) of this section, or the delay is due to any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. An agency may delay notification to the consumer for up to an additional fourteen days to allow for notification to be translated into the primary language of the affected consumers.

(9) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of 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.

(10)(a) For purposes of this section, "personal information" means:

(i) An individual's first name or first initial and last name in combination with any one or more of the following data elements:

(A) Social security number or the last four digits of the social security number;

(B) Driver's license number or Washington identification card number;

(C) Account number, credit or debit card number, or any required security code, access code, or password that would permit access to an individual's financial account, or any other numbers or information that can be used to access a person's financial account;

(D) Full date of birth;

(E) Private key that is unique to an individual and that is used to authenticate or sign an electronic record;

(F) Student, military, or passport identification number;

(G) Health insurance policy number or health insurance identification number;

(H) Any information about a consumer's medical history or mental or physical condition or about a health care professional's medical diagnosis or treatment of the consumer; or

(I) Biometric data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics that is used to identify a specific individual;

(ii) User name or email address in combination with a password or security questions and answers that would permit access to an online account; and

(iii) Any of the data elements or any combination of the data elements described in (a)(i) of this subsection without the consumer's first name or first initial and last name if:

(A) Encryption, redaction, or other methods have not rendered the data element or combination of data elements unusable; and

(B) The data element or combination of data elements would enable a person to commit identity theft against a consumer.

(b) Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(11) For purposes of this section, "secured" means encrypted in a manner that meets or exceeds the national institute of standards and technology standard or is otherwise modified so that the personal information is rendered unreadable, unusable, or undecipherable by an unauthorized person.

Passed by the Senate February 17, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 66

[Substitute Senate Bill 6208]

BICYCLIST STOP SIGN REQUIREMENTS

AN ACT Relating to increasing mobility through the modification of stop sign requirements for bicyclists; amending RCW 46.61.050, 46.61.190, 46.61.200, 46.61.755, and 47.36.110; and providing an effective date.

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

Sec. 1. RCW 46.61.050 and 2019 c 214 s 9 are each amended to read as follows:

(1) The driver of any vehicle, ~~((every bicyclist))~~ a person operating a bicycle, and every pedestrian shall obey, and the operation of every personal delivery device shall follow, the instructions of any official traffic control device applicable thereto, and as specified in this chapter, placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exception granted the driver of an authorized emergency vehicle in this chapter.

(2) No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible or visible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

(3) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(4) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

Sec. 2. RCW 46.61.190 and 2019 c 403 s 7 are each amended to read as follows:

(1) Preferential right-of-way may be indicated by stop signs or yield signs as authorized in RCW 47.36.110.

(2)(a) Except when directed to proceed by a duly authorized flagger, or a police officer, or a firefighter vested by law with authority to direct, control, or regulate traffic, every driver of a vehicle approaching a stop sign shall stop except as provided in (b) of this subsection at a clearly marked stop line, but if none, before entering a marked crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the roadway, and after having stopped shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.

(b)(i) With the exception of (b)(ii) and (iii) of this subsection, a person operating a bicycle approaching a stop sign shall either:

(A) Follow the requirements for approaching a stop sign as specified in (a) of this subsection; or

(B) Follow the requirements for approaching a yield sign as specified in subsection (3) of this section.

(ii) A person operating a bicycle approaching a stop sign located at a highway grade crossing of a railroad must follow the requirements of RCW 46.61.345.

(iii) A person operating a bicycle approaching a "stop" signal in use by a school bus, as required under RCW 46.37.190, must follow the requirements of RCW 46.61.370.

(3) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering a marked crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the roadway, and then after slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways: PROVIDED, That if such a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of the driver's failure to yield right-of-way.

(4)(a) When right-of-way has not been yielded in accordance with this section to a vehicle that is a vulnerable user of a public way, a driver of a motor vehicle found to be in violation of this section must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(b) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.526(11)(c).

(5) The additional fine imposed under subsection (4) of this section must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

Sec. 3. RCW 46.61.200 and 1984 c 7 s 67 are each amended to read as follows:

In addition to the points of intersection of any public highway with any arterial public highway that is constituted by law or by any proper authorities of this state or any city or town of this state, the state department of transportation with respect to state highways, and the proper authorities with respect to any other public highways, have the power to determine and designate any particular intersection, or any particular highways, roads, or streets or portions thereof, at any intersection with which vehicles shall be required to stop before entering such intersection. Upon the determination and designation of such points at

which vehicles will be required to come to a stop before entering the intersection, except as provided in RCW 46.61.190, the proper authorities so determining and designating shall cause to be posted and maintained proper signs of the standard design adopted by the state department of transportation indicating that the intersection has been so determined and designated and that vehicles entering it are required to stop, except as provided in RCW 46.61.190. It is unlawful for any person operating any vehicle when entering any intersection determined, designated, and bearing the required sign to fail and neglect to bring the vehicle to a complete stop before entering the intersection, except as provided in RCW 46.61.190.

Sec. 4. RCW 46.61.755 and 2000 c 85 s 3 are each amended to read as follows:

(1) Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in RCW 46.61.750 through 46.61.780, except as provided in RCW 46.61.190, and except as to those provisions of this chapter which by their nature can have no application.

(2) Every person riding a bicycle upon a sidewalk or crosswalk must be granted all of the rights and is subject to all of the duties applicable to a pedestrian by this chapter.

Sec. 5. RCW 47.36.110 and 2010 c 8 s 10013 are each amended to read as follows:

In order to provide safety at intersections on the state highway system, the department may require persons traveling upon any portion of such highway to stop before entering the intersection, except as provided in RCW 46.61.190. For this purpose there may be erected a standard stop sign as prescribed in the state department of transportation's "Manual on Uniform Traffic Control Devices for Streets and Highways." All persons traveling upon the highway shall come to a complete stop at such a sign, except as provided in RCW 46.61.190, and the appearance of any sign so located is sufficient warning to a person that he or she is required to stop. A person stopping at such a sign shall proceed through that portion of the highway in a careful manner and at a reasonable rate of speed not to exceed twenty miles per hour. It is unlawful to fail to comply with the directions of any such stop sign, except as provided in RCW 46.61.190. When the findings of a traffic engineering study show that the condition of an intersection is such that vehicles may safely enter the major artery without stopping, the department or local authorities in their respective jurisdictions shall install and maintain a "Yield" sign.

NEW SECTION. **Sec. 6.** This act takes effect October 1, 2020.

Passed by the Senate February 12, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 67

[Substitute Senate Bill 6210]

ANTIFOULING PAINTS--RECREATIONAL WATER VESSELS

AN ACT Relating to antifouling paints on recreational water vessels; amending RCW 70.300.020; and adding new sections to chapter 70.300 RCW.

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

Sec. 1. RCW 70.300.020 and 2018 c 94 s 3 are each amended to read as follows:

(1) The department will conduct a review of information about antifouling paints and ingredients, including information received from manufacturers and others pursuant to this chapter; information on the feasibility of best management practices and nonbiocidal antifouling alternatives; and any additional scientific or technical information and studies it determines are relevant to that review.

(2) The department must submit a report to the legislature summarizing its findings no later than June 30, 2024. Prior to submitting the report to the legislature, the department will conduct a public comment process to obtain expertise, input, and a review of the department's proposed determinations by relevant stakeholders and other interested parties. The input received from the public comment process must be considered before finalizing the report.

(3) If the department determines that safer and effective alternatives to copper-based antifouling paints are feasible, reasonable, and readily available, then:

(a) Beginning January 1, ~~((2021))~~ 2026, no manufacturer, wholesaler, retailer, or distributor may sell or offer for sale in this state any new recreational water vessel manufactured on or after January 1, ~~((2021))~~ 2026, with antifouling paint containing more than 0.5 percent copper. This restriction does not apply to wood boats.

~~((2))~~ (b) Beginning January 1, ~~((2021))~~ 2026, antifouling paint that is intended for use on a recreational water vessel and that contains more than 0.5 percent copper may not be offered for sale in this state.

~~((3))~~ (c) Beginning January 1, ~~((2021))~~ 2026, antifouling paint containing more than 0.5 percent copper may not be applied to a recreational water vessel in this state. This restriction does not apply to wood boats.

(4) If the department does not determine by June 30, 2024, that safer and effective alternatives to copper-based antifouling paints are feasible, reasonable, and readily available, then the department must conduct a second review of relevant studies and information on alternatives to copper-based antifouling paints and submit a report to the legislature summarizing its findings no later than June 30, 2029.

(5) Nothing in this section restricts the department from reviewing and restricting antifouling paints under chapter 70.365 RCW.

NEW SECTION. Sec. 2. A new section is added to chapter 70.300 RCW to read as follows:

(1) Beginning January 1, 2023, no manufacturer, wholesaler, retailer, or distributor may sell or offer for sale in this state any new recreational water vessel manufactured on or after January 1, 2023, with antifouling paint

containing cybutryne, chemical abstracts service registration number 28159-98-0.

(2) Beginning January 1, 2023, antifouling paint that is intended for use on a recreational water vessel and that contains cybutryne may not be offered for sale in this state.

(3) Beginning January 1, 2023, antifouling paint containing cybutryne may not be applied to a recreational water vessel in this state.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70.300 RCW to read as follows:

(1) The department may require a manufacturer, wholesaler, or retailer of antifouling paints or related substances to submit a notice to the department containing the following information:

(a) A list of products, including a brief description of each product or product component containing the substance;

(b) Product ingredients, including the names of the chemicals used or produced and applicable chemical abstracts service registry numbers;

(c) Information regarding exposure and chemical hazard;

(d) A description of the function of each chemical in the product;

(e) The amount of the chemical used in each unit of the product or product component;

(f) The name and address of the manufacturer and the name, address, and phone number of a contact person for the manufacturer;

(g) Any other information the manufacturer deems relevant to the appropriate use of the product; and

(h) Any other information requested by the department.

(2) The manufacturer must provide the notice required in subsection (1) of this section to the department no later than six months after receipt of such a demand by the department.

Passed by the Senate February 17, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 68

[Second Substitute Senate Bill 6309]

WOMEN, INFANTS, AND CHILDREN PROGRAM--FRUIT AND VEGETABLE BENEFIT

AN ACT Relating to expanding access to nutritious food; amending RCW 43.70.700; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds that our state has a robust agricultural system, with Washington farmers producing diverse foods available at regional markets throughout the state. The legislature further finds that one in six Washington children do not know where their next meal will come from and that promoting access to fresh foods supports Washington farmers as well as food-insecure families. Hunger for families with children continues to be a significant issue across our state and a growing concern. Hunger and unhealthy diets also impact the health and development of children and a child's ability to

learn. Therefore, the legislature intends to expand access to nutritious foods by increasing the fruit and vegetable benefit for participants in the women, infant, and children farmers market nutrition program.

Sec. 2. RCW 43.70.700 and 2008 c 215 s 8 are each amended to read as follows:

(1) The department shall adopt rules authorizing retail operation farms stores, owned and operated by a farmer and colocated with a site of agricultural production, to participate in the women, infant, and children farmers market nutrition program to provide locally grown, nutritious, unprepared fruits and vegetables to eligible program participants.

(2) Such rules must meet the provisions of 7 C.F.R. part 3016, uniform administrative requirements for grants and cooperative agreements to state and local governments, as it existed on June 12, 2008, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(3) Subject to the availability of amounts appropriated for this specific purpose, the department shall distribute a fruit and vegetable benefit of no less than twenty-eight dollars per summer farmers market season to each eligible participant in the women, infant, and children farmers market nutrition program. To the extent that federal funds are available, the department shall use federal funds up to the maximum benefit allowable under federal law.

Passed by the Senate February 14, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 69

[Senate Bill 6326]

MUNICIPAL CONFLICTS OF INTEREST--VARIOUS PROVISIONS

AN ACT Relating to municipal conflicts of interest; and amending RCW 42.23.030.

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

Sec. 1. RCW 42.23.030 and 2007 c 298 s 1 are each amended to read as follows:

No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein. This section shall not apply in the following cases:

(1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;

(2) The designation of public depositaries for municipal funds;

(3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;

(4) The designation of a school director as clerk or as both clerk and purchasing agent of a school district;

(5) The employment of any person by a municipality for unskilled day labor at wages not exceeding (~~two hundred~~) one thousand dollars in any calendar month. The exception provided in this subsection does not apply to a county with a population of one hundred twenty-five thousand or more, a city with a population of more than one thousand five hundred, an irrigation district encompassing more than fifty thousand acres, or a first-class school district;

(6)(a) The letting of any other contract in which the total amount received under the contract or contracts by the municipal officer or the municipal officer's business does not exceed one thousand five hundred dollars in any calendar month.

(b) However, in the case of a particular officer of a second-class city or town, or a noncharter optional code city, or a member of any county fair board in a county which has not established a county purchasing department pursuant to RCW 36.32.240, the total amount of such contract or contracts authorized in this subsection (6) may exceed one thousand five hundred dollars in any calendar month but shall not exceed eighteen thousand dollars in any calendar year.

(c)(i) In the case of a particular officer of a rural public hospital district, as defined in RCW 70.44.460, the total amount of such contract or contracts authorized in this subsection (6) may exceed one thousand five hundred dollars in any calendar month, but shall not exceed twenty-four thousand dollars in any calendar year.

(ii) At the beginning of each calendar year, beginning with the 2006 calendar year, the legislative authority of the rural public hospital district shall increase the calendar year limitation described in this subsection (6)(c) by an amount equal to the dollar amount for the previous calendar year multiplied by the change in the consumer price index as of the close of the twelve-month period ending December 31st of that previous calendar year. If the new dollar amount established under this subsection is not a multiple of ten dollars, the increase shall be rounded to the next lowest multiple of ten dollars. As used in this subsection, "consumer price index" means the consumer price index compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used.

(d) The exceptions provided in this subsection (6) do not apply to:

(i) A sale or lease by the municipality as the seller or lessor;

(ii) The letting of any contract by a county with a population of one hundred twenty-five thousand or more, a city with a population of ten thousand or more, or an irrigation district encompassing more than fifty thousand acres; or

(iii) Contracts for legal services, except for reimbursement of expenditures.

(e) The municipality shall maintain a list of all contracts that are awarded under this subsection (6). The list must be made available for public inspection and copying;

(7) The leasing by a port district as lessor of port district property to a municipal officer or to a contracting party in which a municipal officer may be beneficially interested, if in addition to all other legal requirements, a board of

three disinterested appraisers and the superior court in the county where the property is situated finds that all terms and conditions of such lease are fair to the port district and are in the public interest. The appraisers must be appointed from members of the American Institute of Real Estate Appraisers by the presiding judge of the superior court;

(8) The letting of any employment contract for the driving of a school bus in a second-class school district if the terms of such contract are commensurate with the pay plan or collective bargaining agreement operating in the district;

(9) The letting of an employment contract as a substitute teacher or substitute educational aide to an officer of a second-class school district that has ~~((two))~~ three hundred or fewer full-time equivalent students, if the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district and the board of directors has found, consistent with the written policy under RCW 28A.330.240, that there is a shortage of substitute teachers in the school district;

(10) The letting of any employment contract to the spouse of an officer of a school district, when such contract is solely for employment as a substitute teacher for the school district. This exception applies only if the terms of the contract are commensurate with the pay plan or collective bargaining agreement applicable to all district employees and the board of directors has found, consistent with the written policy under RCW 28A.330.240, that there is a shortage of substitute teachers in the school district;

(11) The letting of any employment contract to the spouse of an officer of a school district if the spouse was under contract as a certificated or classified employee with the school district before the date in which the officer assumes office and the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district. However, in a second-class school district that has less than two hundred full-time equivalent students enrolled at the start of the school year as defined in RCW ~~((28A.150.040))~~ 28A.150.203, the spouse is not required to be under contract as a certificated or classified employee before the date on which the officer assumes office;

(12) The authorization, approval, or ratification of any employment contract with the spouse of a public hospital district commissioner if: (a) The spouse was employed by the public hospital district before the date the commissioner was initially elected; (b) the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district for similar employees; (c) the interest of the commissioner is disclosed to the board of commissioners and noted in the official minutes or similar records of the public hospital district prior to the letting or continuation of the contract; and (d) and the commissioner does not vote on the authorization, approval, or ratification of the contract or any conditions in the contract.

A municipal officer may not vote in the authorization, approval, or ratification of a contract in which he or she is beneficially interested even though one of the exemptions allowing the awarding of such a contract applies. The interest of the municipal officer must be disclosed to the governing body of the municipality and noted in the official minutes or similar records of the municipality before the formation of the contract.

Passed by the Senate February 12, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 18, 2020.
Filed in Office of Secretary of State March 18, 2020.

CHAPTER 70

[Senate Bill 6357]

PULL-TABS--DOLLAR LIMIT INCREASE

AN ACT Relating to increasing the dollar limit of pull-tabs; and amending RCW 9.46.110.

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

Sec. 1. RCW 9.46.110 and 1999 c 221 s 1 are each amended to read as follows:

(1) The legislative authority of any county, city-county, city, or town, by local law and ordinance, and in accordance with the provisions of this chapter and rules adopted under this chapter, may provide for the taxing of any gambling activity authorized by this chapter within its jurisdiction, the tax receipts to go to the county, city-county, city, or town so taxing the activity. Any such tax imposed by a county alone shall not apply to any gambling activity within a city or town located in the county but the tax rate established by a county, if any, shall constitute the tax rate throughout the unincorporated areas of such county.

(2) The operation of punchboards and pull-tabs are subject to the following conditions:

(a) Chances may only be sold to adults;

(b) The price of a single chance may not exceed ~~((one))~~ five dollars;

(c) No punchboard or pull-tab license may award as a prize upon a winning number or symbol being drawn the opportunity of taking a chance upon any other punchboard or pull-tab;

(d) All prizes available to be won must be described on an information flare. All merchandise prizes must be on display within the immediate area of the premises in which any such punchboard or pull-tab is located. Upon a winning number or symbol being drawn, a merchandise prize must be immediately removed from the display and awarded to the winner. All references to cash or merchandise prizes, with a value over twenty dollars, must be removed immediately from the information flare when won, or such omission shall be deemed a fraud for the purposes of this chapter; and

(e) When any person wins money or merchandise from any punchboard or pull-tab over an amount determined by the commission, every licensee shall keep a public record of the award for at least ninety days containing such information as the commission shall deem necessary.

(3)(a) Taxation of bingo and raffles shall never be in an amount greater than five percent of the gross receipts from a bingo game or raffle less the amount awarded as cash or merchandise prizes.

(b) Taxation of amusement games shall only be in an amount sufficient to pay the actual costs of enforcement of the provisions of this chapter by the county, city or town law enforcement agency and in no event shall such taxation exceed two percent of the gross receipts from the amusement game less the amount awarded as prizes.

(c) No tax shall be imposed under the authority of this chapter on bingo or amusement games when such activities or any combination thereof are

conducted by any bona fide charitable or nonprofit organization as defined in this chapter, which organization has no paid operating or management personnel and has gross receipts from bingo or amusement games, or a combination thereof, not exceeding five thousand dollars per year, less the amount awarded as cash or merchandise prizes.

(d) No tax shall be imposed on the first ten thousand dollars of gross receipts less the amount awarded as cash or merchandise prizes from raffles conducted by any bona fide charitable or nonprofit organization as defined in this chapter.

(e) Taxation of punchboards and pull-tabs for bona fide charitable or nonprofit organizations is based on gross receipts from the operation of the games less the amount awarded as cash or merchandise prizes, and shall not exceed a rate of ten percent. At the option of the county, city-county, city, or town, the taxation of punchboards and pull-tabs for commercial stimulant operators may be based on gross receipts from the operation of the games, and may not exceed a rate of five percent, or may be based on gross receipts from the operation of the games less the amount awarded as cash or merchandise prizes, and may not exceed a rate of ten percent.

(f) Taxation of social card games may not exceed twenty percent of the gross revenue from such games.

(4) Taxes imposed under this chapter become a lien upon personal and real property used in the gambling activity in the same manner as provided for under RCW 84.60.010. The lien shall attach on the date the tax becomes due and shall relate back and have priority against real and personal property to the same extent as ad valorem taxes.

Passed by the Senate February 13, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 71

[Senate Bill 6423]

CHILD ABUSE AND NEGLECT REPORTS--INVESTIGATION--LIABILITY

AN ACT Relating to reports alleging child abuse and neglect; and amending RCW 26.44.050 and 26.44.060.

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

Sec. 1. RCW 26.44.050 and 2017 3rd sp.s. c 6 s 324 are each amended to read as follows:

Except as provided in RCW 26.44.030(11), upon the receipt of a report ~~((concerning the possible occurrence of))~~ alleging that abuse or neglect has occurred, the law enforcement agency or the department must investigate and provide the protective services section with a report in accordance with chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW

13.34.050. The law enforcement agency or the department investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child.

Sec. 2. RCW 26.44.060 and 2007 c 118 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, any person participating in good faith in the making of a report pursuant to this chapter (~~(e)~~), testifying as to alleged child abuse or neglect in a judicial proceeding, or otherwise providing information or assistance, including medical evaluations or consultations, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect shall in so doing be immune from any civil or criminal liability arising out of such reporting or testifying under any law of this state or its political subdivisions.

(b) A person convicted of a violation of subsection (4) of this section shall not be immune from liability under (a) of this subsection.

(2) An administrator of a hospital or similar institution or any physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a child into custody pursuant to RCW 26.44.056 shall not be subject to criminal or civil liability for such taking into custody.

(3) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW.

(4) A person who, intentionally and in bad faith, knowingly makes a false report of alleged abuse or neglect shall be guilty of a misdemeanor punishable in accordance with RCW 9A.20.021.

(5) A person who, in good faith and without gross negligence, cooperates in an investigation arising as a result of a report made pursuant to this chapter, shall not be subject to civil liability arising out of his or her cooperation. This subsection does not apply to a person who caused or allowed the child abuse or neglect to occur.

Passed by the Senate February 19, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 72

[Senate Bill 6493]

COOPER JONES ACTIVE TRANSPORTATION SAFETY COUNCIL

AN ACT Relating to the Cooper Jones active transportation safety council; adding a new section to chapter 43.59 RCW; and repealing RCW 43.59.155.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.59 RCW to read as follows:

(1) Within amounts appropriated to the traffic safety commission, the commission must convene the Cooper Jones active transportation safety council

comprised of stakeholders who have a unique interest or expertise in the safety of pedestrians, bicyclists, and other nonmotorists.

(2) The purpose of the council is to review and analyze data and programs related to fatalities and serious injuries involving pedestrians, bicyclists, and other nonmotorists to identify points at which the transportation system can be improved including, whenever possible, privately owned areas of the system such as parking lots, and to identify patterns in pedestrian, bicyclist, and other nonmotorist fatalities and serious injuries. The council may also:

(a) Monitor progress on implementation of existing council recommendations; and

(b) Seek opportunities to expand consideration and implementation of the principles of systematic safety, including areas where data collection may need improvement.

(3)(a) The council may include, but is not limited to:

(i) A representative from the commission;

(ii) A coroner from the county in which pedestrian, bicyclist, or nonmotorist deaths have occurred;

(iii) Multiple members of law enforcement who have investigated pedestrian, bicyclist, or nonmotorist fatalities;

(iv) A traffic engineer;

(v) A representative from the department of transportation and a representative from the department of health;

(vi) A representative from the association of Washington cities;

(vii) A representative from the Washington state association of counties;

(viii) A representative from a pedestrian advocacy group; and

(ix) A representative from a bicyclist or other nonmotorist advocacy group.

(b) The commission may invite other representatives of stakeholder groups to participate in the council as deemed appropriate by the commission. Additionally, the commission may invite a victim or family member of a victim to participate in the council.

(4) The council must meet at least quarterly. By December 31st of each year, the council must issue an annual report detailing any findings and recommendations to the governor and the transportation committees of the legislature. The commission must provide the annual report electronically to all municipal governments and state agencies that participated in the council during that calendar year. Additionally, the council must report any budgetary or fiscal recommendations to the office of financial management and the legislature by August 1st on a biennial basis.

(5) As part of the review of pedestrian, bicyclist, or nonmotorist fatalities and serious injuries that occur in Washington, the council may review any available information, including crash information maintained in existing databases; statutes, rules, policies, or ordinances governing pedestrians and traffic related to the incidents; and any other relevant information. The council may make recommendations regarding changes in statutes, ordinances, rules, and policies that could improve pedestrian, bicyclist, or nonmotorist safety. Additionally, the council may make recommendations on how to improve traffic fatality and serious injury data quality, including crashes that occur in privately owned property such as parking lots. The council may consult with local cities and counties, as well as local police departments and other law enforcement

agencies and associations representing those jurisdictions on how to improve data quality regarding crashes occurring on private property.

(6)(a) Documents prepared by or for the council are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in a review by the council, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by the council. For confidential information, such as personally identifiable information and medical records, which are obtained by the council, neither the commission nor the council may publicly disclose such confidential information. No person who was in attendance at a meeting of the council or who participated in the creation, retention, collection, or maintenance of information or documents specifically for the commission or the council shall be permitted to testify in any civil action as to the content of such proceedings or of the documents and information prepared specifically as part of the activities of the council. However, recommendations from the council and the commission generally may be disclosed without personal identifiers.

(b) The council may review, only to the extent otherwise permitted by law or court rule when determined to be relevant and necessary: Any law enforcement incident documentation, such as incident reports, dispatch records, and victim, witness, and suspect statements; any supplemental reports, probable cause statements, and 911 call taker's reports; and any other information determined to be relevant to the review. The commission and the council must maintain the confidentiality of such information to the extent required by any applicable law.

(7) If acting in good faith, without malice, and within the parameters of and protocols established under this chapter, representatives of the commission and the council are immune from civil liability for an activity related to reviews of particular fatalities and serious injuries.

(8) This section must not be construed to provide a private civil cause of action.

(9)(a) The council may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the council and spend the gifts, grants, or endowments from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560.

(b) Subject to the appropriation of funds for this specific purpose, the council may provide grants targeted at improving pedestrian, bicyclist, or nonmotorist safety in accordance with recommendations made by the council.

(10) For purposes of this section:

(a) "Bicyclist fatality" means any death of a bicyclist resulting from a collision, whether on a roadway, at an intersection, along an adjacent sidewalk, or on a path that is contiguous with a roadway.

(b) "Council" means the Cooper Jones active transportation safety council.

(c) "Nonmotorist" means anyone using the transportation system who is not in a vehicle.

(d) "Pedestrian fatality" means any death of a pedestrian resulting from a collision, whether on a roadway, at an intersection, along an adjacent sidewalk, or on a path that is contiguous with a roadway.

(e) "Serious injury" means any injury other than a fatal injury that prevents the injured person from walking, driving, or normally continuing the activities the person was capable of performing before the injury occurred.

NEW SECTION. **Sec. 2.** RCW 43.59.155 (Cooper Jones active transportation safety council) and 2019 c 54 s 1 & 2015 c 243 s 1 are each repealed.

Passed by the Senate February 17, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 73

[Substitute Senate Bill 6500]

FOSTER CARE LICENSING--LICENSEE RELOCATION

AN ACT Relating to foster care licensing following a foster-family home licensee's move to a new location; amending RCW 74.15.100; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds that at least forty-six foster home licenses were closed between 2017 and 2019 due to failure to notify the department of children, youth, and families of a change of residence within thirty days of relocation. In recognition of the importance of maintaining foster placements in Washington, the legislature intends to provide licensing continuation for foster families without a foster child in their care at the time of relocation if the licensee meets minimum licensing standards and completes a home inspection within thirty days of providing notice of relocation.

Sec. 2. RCW 74.15.100 and 2018 c 284 s 68 are each amended to read as follows:

Each agency shall make application for a license or renewal of license to the department on forms prescribed by the department. A licensed agency having foster-family homes under its supervision may make application for a license on behalf of any such foster-family home. Such a foster home license shall cease to be valid when the home is no longer under the supervision of that agency. Upon receipt of such application, the department shall either grant or deny a license within ninety days unless the application is for licensure as a foster-family home, in which case RCW 74.15.040 shall govern. A license shall be granted if the agency meets the minimum requirements set forth in this chapter (~~(74.15 RCW)~~) and RCW 74.13.031 and the departmental requirements consistent herewith, except that an initial license may be issued as provided in RCW 74.15.120. Licenses provided for in this chapter (~~(74.15 RCW)~~) and RCW 74.13.031 shall be issued for a period of three years. The licensee, however, shall advise the secretary of any material change in circumstances which might constitute grounds for reclassification of license as to category. The license issued under this chapter is not transferable and applies only to the licensee. The license shall be limited to a particular location which shall be stated on the license. For licensed foster-family homes having an acceptable history of child care, the license may remain in effect for thirty days after a move, except that this will apply only if the family remains intact and children are placed in their care.

Licensees must notify their licensor before moving to a new location and may request a continuation of the license at the new location. ~~((At the request of the licensee, the department shall, within thirty days following a foster-family home licensee's move to a new location, amend the license to reflect the new location, provided the new location and the licensee meet))~~ The department shall conduct a home inspection following notification that a foster-family home has moved to a new location. Provided the new location and licensees meet minimum licensing standards, the licensor shall amend the license to reflect the new location. Licensees whose family remains intact and have no children placed in their care at the time of a move to a new location shall notify their licensor within ninety days of moving. If the licensee is in good standing at the time of the move, the licensor shall place the home on no-referral status and complete a home inspection within thirty days of notification. Such licensees shall remain on no-referral status and no new placements may be made in their home until the inspection is complete and the licensor determines that the new location meets minimum licensing standards.

Passed by the Senate February 13, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 74

[Senate Bill 6567]

BLOOD DONOR DAY

AN ACT Relating to recognizing the eighteenth day of December as blood donor day; reenacting and amending RCW 1.16.050; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that with the help of over two hundred fifty thousand registered donors and volunteers in the state, blood centers collect close to one thousand units of blood each day. All blood receives immediate, comprehensive testing so that it can be available to regional hospitals, usually in less than twenty-four hours after donation. About one in seven people entering a hospital need blood. Blood is always needed for treatment of accident victims, cancer patients, hemophiliacs, and surgery patients. Blood cannot be manufactured. Blood is collected at local donor centers and mobile units travel to hundreds of blood drives every month at work sites, schools, places of worship, and other community locations throughout the Pacific Northwest. Blood donation is one of the most significant contributions that a person can make towards our society. When the Amtrak Cascades passenger train 501 tragically derailed near Olympia on December 18, 2017, our state came together to save the lives of more than eighty injured passengers. A team comprised of emergency responders, health care providers, ordinary citizens, and blood donors at blood centers throughout the state collected over two thousand units to respond to the lives of those in need. Blood donation is an integral community responsibility that connects all of us in our state. Therefore, it is the intent of the legislature to recognize and celebrate the incredible value of

blood donors and blood donations in Washington by designating the eighteenth day of December as blood donor day.

Sec. 2. RCW 1.16.050 and 2019 c 224 s 2 and 2019 c 10 s 1 are each reenacted and amended to read as follows:

(1) The following are state legal holidays:

(a) Sunday;

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

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

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

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

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

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

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

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

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

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

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

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

have the meaning established in rule by the office of financial management under RCW 43.41.109.

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

(5) Whenever any state legal holiday:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(o) The thirty-first day of March, recognized as Cesar Chavez day;

(p) The tenth day of April, recognized as Dolores Huerta day; ~~(and)~~

(q) The fourth Saturday of September, recognized as public lands day; and

(r) The eighteenth day of December, recognized as blood donor day.

Passed by the Senate February 13, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 75

[Substitute Senate Bill 6670]

STATE PARKS--LIBRARY DISCOVER PASSES

AN ACT Relating to encouraging access to state parks through cooperative programs with libraries; adding a new section to chapter 79A.80 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 state parks and recreation commission and the state library have developed a pilot program with several library systems throughout the state to encourage library patrons to gain outdoor recreation experiences at state parks and other recreational lands administered by the state. Under this program, the state parks and recreation commission has provided library discover passes to libraries that may be checked out on a temporary basis by library patrons for vehicle parking in state parks. The program requires libraries to include equipment, such as backpacks and binoculars, with the library discover passes that are checked out to enhance the library patron's outdoor experience. The legislature intends by this act to make available resources so that the state parks and recreation commission may offer library discover passes to any library that chooses to make library discover passes and certain outdoor equipment available for loan to library patrons.

NEW SECTION. Sec. 2. A new section is added to chapter 79A.80 RCW to read as follows:

Once each calendar year, the commission must provide at least two library discover passes to any library that submits a request to the commission, so that the library can provide the pass on a loan basis to their patrons as with other library materials. The commission is not required to replace any library discover pass that is lost or not returned. The commission should prioritize the distribution of any additional library discover passes to libraries that also check out outdoor equipment, such as backpacks, binoculars, field guides, and other equipment that will enhance the patron's outdoor experience.

Passed by the Senate February 13, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

CHAPTER 76

[Engrossed Substitute House Bill 1551]

COMMUNICABLE DISEASE CONTROL--VARIOUS PROVISIONS

AN ACT Relating to modernizing the control of certain communicable diseases; amending RCW 70.24.015, 70.24.017, 70.24.024, 70.24.080, 70.24.110, 70.24.120, 70.24.130, 70.24.220, 70.24.290, 70.24.325, 70.24.340, 70.24.360, 70.24.370, 9A.36.011, 18.35.040, 49.44.180, 49.60.172, 43.150.050, and 74.39.005; adding new sections to chapter 70.24 RCW; repealing RCW 70.24.095, 70.24.100, 70.24.107, 70.24.125, 70.24.140, 70.24.200, 70.24.210, 70.24.240, 70.24.250, 70.24.260,

70.24.270, 70.24.280, 70.24.300, 70.24.310, 70.24.320, 70.24.350, 70.24.380, and 70.24.410; and prescribing penalties.

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

Sec. 1. RCW 70.24.015 and 1988 c 206 s 901 are each amended to read as follows:

The legislature declares that sexually transmitted diseases and blood-borne pathogens constitute a serious and sometimes fatal threat to the public and individual health and welfare of the people of the state. The legislature finds that the incidence of sexually transmitted diseases and blood-borne pathogens is rising at an alarming rate and that these diseases result in significant social, health, and economic costs, including infant and maternal mortality, temporary and lifelong disability, and premature death. The legislature further finds that sexually transmitted diseases and blood-borne pathogens, by their nature, involve sensitive issues of privacy, and it is the intent of the legislature that all programs designed to deal with these diseases afford patients privacy, confidentiality, and dignity. The legislature also finds that medical knowledge and information about sexually transmitted diseases and blood-borne pathogens are rapidly changing. It is therefore the intent of the legislature to provide a program that is sufficiently flexible to meet emerging needs, deals efficiently and effectively with reducing the incidence of sexually transmitted diseases and blood-borne pathogens, and provides patients with a secure knowledge that information they provide will remain private and confidential.

Sec. 2. RCW 70.24.017 and 2001 c 319 s 4 are each amended to read as follows:

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

(1) (~~"Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.~~) "Blood-borne pathogen" means a pathogenic microorganism that is present in human blood and can cause disease in humans, including hepatitis B virus, hepatitis C virus, and human immunodeficiency virus, as well as any other pathogen specified by the board in rule.

(2) "Board" means the state board of health.

(3) "Department" means the department of health, or any successor department with jurisdiction over public health matters.

(4) "Health care provider" means any person who is a member of a profession under RCW 18.130.040 or other person providing medical, nursing, psychological, or other health care services regulated by the department of health.

(5) "Health care facility" means a hospital, nursing home, neuropsychiatric or mental health facility, home health agency, hospice, child care agency, group care facility, family foster home, clinic, blood bank, blood center, sperm bank, laboratory, or other social service or health care institution regulated or operated by the department of health.

(6) (~~"HIV-related condition" means any medical condition resulting from infection with HIV including, but not limited to, seropositivity for HIV.~~) "Health order" means a written directive issued by the state or local health

officer that requires the recipient to take specific action to remove, reduce, control or prevent a risk to public health.

(7) "Human immunodeficiency virus" or "HIV" means all HIV and HIV-related viruses which damage the cellular branch of the human immune (~~(or neurological)~~) system(~~(s)~~) and leave the (~~(infected)~~) person immunodeficient (~~(or neurologically impaired)~~).

(8) "Test for a sexually transmitted disease" means a test approved by the board by rule.

(9) "Legal guardian" means a person appointed by a court to assume legal authority for another who has been found incompetent or, in the case of a minor, a person who has legal custody of the child.

(10) "Local (~~(public)~~) health officer" (~~((means the officer directing the county health department or his or her designee who has been given the responsibility and authority to protect the health of the public within his or her jurisdiction))~~) has the same meaning as in RCW 70.05.010.

(11) "Medical treatment" includes treatment for curable diseases and treatment that causes a person to be unable to transmit a disease to others, based upon generally accepted standards of medical and public health science, as specified by the board in rule.

(12) "Person" includes any natural person, partnership, association, joint venture, trust, public or private corporation, or health facility.

~~((12) "Release of test results" means a written authorization for disclosure of any sexually transmitted disease test result which is signed, dated, and which specifies to whom disclosure is authorized and the time period during which the release is to be effective.))~~

(13) "Sexually transmitted disease" means a bacterial, viral, fungal, or parasitic (~~(disease)~~) infection, determined by the board by rule to be sexually transmitted, to be a threat to the public health and welfare, and to be (~~(a disease)~~) an infection for which a legitimate public interest will be served by providing for regulation and treatment. The board shall designate chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, (~~(nongonococcal urethritis (NGU))~~) trachomitis, genital human papilloma virus infection, syphilis, (~~(acquired immunodeficiency syndrome (AIDS))~~) and human immunodeficiency virus (HIV) infection as sexually transmitted diseases, and shall consider the recommendations and classifications of the centers for disease control and other nationally recognized medical authorities in designating other diseases as sexually transmitted.

(14) "State (~~(public)~~) health officer" means the secretary of health or an officer appointed by the secretary.

Sec. 3. RCW 70.24.024 and 1988 c 206 s 909 are each amended to read as follows:

(1) Subject to the provisions of this chapter, the state and local (~~(public)~~) health officers or their authorized representatives may examine and counsel (~~(or cause to be examined and counseled)~~) persons reasonably believed to be infected with or to have been exposed to a sexually transmitted disease.

(2) (~~(Orders or restrictive measures directed to persons with a sexually transmitted disease shall be used as the last resort when other measures to protect the public health have failed, including reasonable efforts, which shall be documented, to obtain the voluntary cooperation of the person who may be~~

subject to such an order. The orders and measures shall be applied serially with the least intrusive measures used first. The burden of proof shall be on the state or local public health officer to show that specified grounds exist for the issuance of the orders or restrictive measures and that the terms and conditions imposed are no more restrictive than necessary to protect the public health.

~~(3) When the state or local public health officer within his or her respective jurisdiction knows or has reason to believe, because of direct medical knowledge or reliable testimony of others in a position to have direct knowledge of a person's behavior, that a person has a sexually transmitted disease and is engaging in specified conduct, as determined by the board by rule based upon generally accepted standards of medical and public health science, that endangers the public health, he or she shall conduct an investigation in accordance with procedures prescribed by the board to evaluate the specific facts alleged, if any, and the reliability and credibility of the person or persons providing such information and, if satisfied that the allegations are true, he or she may issue an order according to the following priority to:~~

~~(a) Order a person to:))~~ (a) The state or a local health officer may conduct an investigation when:

(i) He or she knows or has reason to believe that a person in his or her jurisdiction has a sexually transmitted disease and is engaging in specified behavior that endangers the public health; and

(ii) The basis for the health officer's investigation is the officer's direct medical knowledge or reliable testimony of another who is in a position to have direct knowledge of the person's behavior.

(b) In conducting the investigation, the health officer shall evaluate the allegations, as well as the reliability and credibility of any person or persons who provided information related to the specified behavior that endangers the public health.

(3) If the state or local health officer determines upon conclusion of the investigation that the allegations are true and that the person continues to engage in behavior that endangers the public health, the health officer shall document measures taken to protect the public health, including reasonable efforts to obtain the person's voluntary cooperation.

(4)(a) If the measures taken under subsection (3) of this section fail to protect the public health, the state or local health officer may issue a health order requiring the person to:

(i) Submit to a medical examination or testing, ~~((seek))~~ receive counseling, or ~~((obtain))~~ receive medical treatment ~~((for curable diseases)),~~ or any combination of these ~~((, within a period of time determined by the public health officer, not to exceed fourteen days.~~

~~(b) Order a person to:))~~. If ordering a person to receive medical treatment, the health officer must provide the person with at least one additional appropriate option to choose from in the health order; or

(ii) Immediately cease and desist from specified ~~((conduct which))~~ behavior that endangers the public health ~~((of others))~~ by imposing such restrictions upon the person as are necessary to prevent the specified ~~((conduct))~~ behavior that endangers the public health ~~((of others only if the public health officer has determined that clear and convincing evidence exists to believe that such person~~

~~has been ordered to report for counseling as provided in (a) of this subsection and continues to demonstrate behavior which endangers the health of others).~~

(b) Any restriction shall be in writing, setting forth the name of the person to be restricted (~~and~~), the initial period of time (~~(, not to exceed three months,)~~) during which the health order shall remain effective, the terms of the restrictions, and such other conditions as may be necessary to protect the public health. Restrictions shall be imposed in the least-restrictive manner necessary to protect the public health. The period of time during which the health order is effective must be reasonably related to the purpose of the restriction or restrictions contained in the order, up to a maximum period of twelve months.

~~((4)) (5)(a) Upon the issuance of ((any)) a health order ((by the state or local public health officer or an authorized representative)) pursuant to subsection ((3)) (4) of this section ((or RCW 70.24.340(4), such public)), the state or local health officer shall give written notice promptly, personally, and confidentially to the person who is the subject of the order stating the grounds and provisions of the order, including the factual bases therefor, the evidence relied upon for proof of infection and dangerous behavior, and the likelihood of repetition of such behaviors in the absence of such an order(, and notifying)). The written notice must inform the person who is the subject of the order that, if he or she contests the order, he or she may file an appeal and appear at a judicial hearing on the enforceability of the order, to be held in superior court. ~~((He or she may have an attorney appear on his or her behalf in the hearing at public expense, if necessary.))~~ The hearing shall be held within seventy-two hours of receipt of the notice, unless the person subject to the order agrees to comply. If the person contests the order, no invasive medical procedures shall be carried out prior to a hearing being held pursuant to this subsection. ~~((If the person does not contest the order within seventy-two hours of receiving it, and the person does not comply with the order within the time period specified for compliance with the order, the state or local public health officer may request a warrant be issued by the superior court to insure appearance at the hearing. The hearing shall be within seventy-two hours of the expiration date of the time specified for compliance with the original order.))~~~~

(b) The health officer may apply to the superior court for a court order requiring the person to comply with the health order if the person fails to comply with the health order within the time period specified.

(c) At a hearing held pursuant to (a) or (b) of this subsection (5), the person subject to the health order may have an attorney appear on his or her behalf at public expense, if necessary. The burden of proof shall be on the ~~((public))~~ health officer to show by clear and convincing evidence that the specified grounds exist for the issuance of the order and for the need for compliance and that the terms and conditions imposed therein are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the health order.

~~((b)) (d) If the superior court dismisses the health order ((of the public health officer)), the fact that the order was issued shall be expunged from the records of the department or local department of health.~~

~~((5) Any hearing conducted pursuant to this section shall be closed and confidential unless a public hearing is requested by the person who is the subject~~

of the order, in which case the hearing will be conducted in open court. Unless in open hearing, any transcripts or records relating thereto shall also be confidential and may be sealed by the order of the court.))

NEW SECTION. Sec. 4. A new section is added to chapter 70.24 RCW to read as follows:

A person who violates or fails to comply with a health order issued under RCW 70.24.024 is guilty of a gross misdemeanor punishable by confinement until the order has been complied with or terminated, up to a maximum period of three hundred sixty-four days. In lieu of confinement, the court may place the defendant on probation upon condition that the defendant comply with the health order, up to the length of the health order. If the defendant is placed on probation and subsequently violates or fails to comply with the health order, the court shall revoke the probation and reinstate the original sentence of confinement.

NEW SECTION. Sec. 5. A new section is added to chapter 70.24 RCW to read as follows:

(1) It is unlawful for a person who knows that he or she has HIV to have sexual intercourse if:

(a) The person has been counseled by a health care provider or public health professional regarding the risk of transmitting HIV to others;

(b) The partner or partners exposed to HIV through sexual intercourse did not know that the person had HIV; and

(c) The person intended to transmit HIV to the partner.

(2) It is a defense to a prosecution under this section if:

(a) HIV was not transmitted to the partner; or

(b) The person took or attempted to take practical means to prevent transmission of HIV.

(3)(a) Except as provided in (b) of this subsection, violation of this section is a misdemeanor punishable as provided in RCW 9A.20.021.

(b) Violation of this section is a gross misdemeanor punishable as provided in RCW 9A.20.021 if the person knowingly misrepresented his or her infection status to the partner.

(c) Violation of this section does not require registration under RCW 9A.44.130, unless the partner is a child or vulnerable adult victim.

(4) For purposes of this section, the following terms have the following meanings:

(a) "Practical means to prevent transmission" means good faith employment of an activity, behavior, method, or device that is scientifically demonstrated to measurably reduce the risk of transmitting a sexually transmitted disease, including but not limited to: The use of a condom, barrier protection, or other prophylactic device; or good faith participation in a treatment regimen prescribed by a health care provider or public health professional.

(b) "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight, of the vagina or anus of one person by the sexual organs of another whether such persons are of the same or another sex.

Sec. 6. RCW 70.24.080 and 1988 c 206 s 911 are each amended to read as follows:

Except as provided in sections 4 and 5 of this act, any person who ((shall)) violates any of the provisions of this chapter or any ((lawful)) rule adopted by

the board (~~((pursuant to the authority herein granted))~~) under this chapter, or who (~~((shall))~~) fails or refuses to obey any lawful order issued by any state, county or municipal (~~((public))~~) health officer (~~((, pursuant to the authority granted in))~~) under this chapter(~~((;))~~) shall be deemed guilty of a gross misdemeanor punishable as provided under RCW 9A.20.021.

Sec. 7. RCW 70.24.110 and 1988 c 206 s 912 are each amended to read as follows:

A minor fourteen years of age or older who may have come in contact with any sexually transmitted disease or suspected sexually transmitted disease may give consent to the furnishing of hospital, medical, and surgical care related to the diagnosis or treatment of such disease; and treatment to avoid HIV infection. Such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents, or legal guardian of such minor shall not be necessary to authorize hospital, medical, and surgical care related to such disease, and such parent, parents, or legal guardian shall not be liable for payment for any care rendered pursuant to this section.

Sec. 8. RCW 70.24.120 and 1991 c 3 s 324 are each amended to read as follows:

~~((Sexually transmitted))~~ (1) Disease case investigators, upon specific authorization from a physician or by a physician's standing order, are hereby authorized to (~~((perform))~~) gather specimens, including through performance of venipuncture or ((skin)) fingerstick puncture ((on)), from a person for the sole purpose of (~~((withdrawing blood))~~) obtaining specimens for use in ((sexually transmitted disease tests)) testing for sexually transmitted diseases, blood-borne pathogens, and other infections as defined by board rule.

~~((The term "sexually transmitted"))~~ (2) For the purposes of this section:

(a) "Disease case investigator" (~~((shall))~~) means only those persons who:

~~((4))~~ (i) Are employed by public health authorities; and

~~((2))~~ (ii) Have been trained by a physician in proper procedures to be employed when (~~((withdrawing))~~) collecting specimens, including blood, in accordance with training requirements established by the department of health; and

~~((3))~~ (iii) Possess a statement signed by the instructing physician that the training required by (a)(ii) of this subsection (~~((2) of this section))~~) has been successfully completed.

~~((The term))~~ (b) "Physician" means any person licensed under the provisions of chapters 18.57 or 18.71 RCW.

Sec. 9. RCW 70.24.130 and 1991 c 3 s 325 are each amended to read as follows:

(1) The board shall adopt such rules as are necessary to implement and enforce this chapter (~~((Rules may also be adopted by the department of health for the purposes of this chapter. The rules may include))~~), including, but not limited to, rules:

(a) Establishing procedures for taking appropriate action, in addition to any other penalty under this chapter, with regard to health care facilities or health care providers (~~((which))~~) that violate this chapter or the rules adopted under this chapter (~~((The rules shall prescribe))~~);

(b) Prescribing stringent safeguards to protect the confidentiality of the persons and records subject to this chapter, consistent with chapter 70.02 RCW;

(c) Establishing reporting requirements for sexually transmitted diseases;

(d) Establishing procedures for investigations under RCW 70.24.024;

(e) Specifying, for purposes of RCW 70.24.024, behavior that endangers the public health, based upon generally accepted standards of medical and public health science;

(f) Defining, for the purposes of RCW 70.24.120, specimens that can be obtained and tests that can be administered for sexually transmitted diseases, blood-borne pathogens, and other infections;

(g) Determining, for purposes of RCW 70.24.340, categories of employment that are at risk of substantial exposure to a blood-borne pathogen; and

(h) Defining, for purposes of RCW 70.24.340, 70.24.360, and 70.24.370, what constitutes an exposure that presents a possible risk of transmission of a blood-borne pathogen.

(2) In addition to any rules adopted by the board, the department may adopt any rules necessary to implement and enforce this chapter.

(3) The procedures set forth in chapter 34.05 RCW apply to the administration of this chapter, except that in case of conflict between chapter 34.05 RCW and this chapter, the provisions of this chapter shall control.

Sec. 10. RCW 70.24.220 and 1988 c 206 s 401 are each amended to read as follows:

The legislature finds that the public schools provide a unique and appropriate setting for educating young people about the pathology and prevention of ~~((acquired immunodeficiency syndrome (AIDS)))~~ sexually transmitted diseases. The legislature recognizes that schools and communities vary throughout the state and that locally elected school directors should have a significant role in establishing a program of ~~((AIDS))~~ sexually transmitted disease education in their districts, consistent with RCW 28A.230.020 and 28A.300.475.

Sec. 11. RCW 70.24.290 and 1988 c 206 s 606 are each amended to read as follows:

The superintendent of public instruction shall adopt rules that require appropriate education and training, to be included as part of their present continuing education requirements, for public school employees on the prevention, transmission, and treatment of ~~((AIDS))~~ blood-borne pathogens. The superintendent of public instruction, in consultation with the department of health, shall ~~((work with the office on AIDS under RCW 70.24.250 to))~~ develop the educational and training material necessary for school employees.

Sec. 12. RCW 70.24.325 and 1989 c 387 s 1 are each amended to read as follows:

(1) This section shall apply to ~~((counseling and))~~ consent for ((HIV)) blood-borne pathogen testing administered as part of an application for coverage authorized under Title 48 RCW.

(2) Persons subject to regulation under Title 48 RCW who are requesting an insured, a subscriber, or a potential insured or subscriber to furnish the results of ~~((an HIV))~~ a blood-borne pathogen test for underwriting purposes as a condition

for obtaining or renewing coverage under an insurance contract, health care service contract, or health maintenance organization agreement shall:

(a) Provide written information to the individual prior to being tested which explains(:

(i) ~~What an HIV test is;~~

(ii) ~~Behaviors that place a person at risk for HIV infection;~~

(iii)) which blood-borne pathogen test is being administered; and that the purpose of ((HIV)) blood-borne pathogen testing in this setting is to determine eligibility for coverage(;

(iv) ~~The potential risks of HIV testing; and~~

(v) ~~Where to obtain HIV pretest counseling)).~~

(b) Obtain informed specific written consent for ~~((an HIV test))~~ the blood-borne pathogen test or tests. The written informed consent shall include(:

~~(+)) an explanation of the confidential treatment of the test results which limits access to the results to persons involved in handling or determining applications for coverage or claims of the applicant or claimant ((and to those persons designated under (c)(iii) of this subsection; and~~

~~(ii) Requirements under (c)(iii) of this subsection)).~~

(c) Establish procedures to inform an applicant of the following:

(i) ~~((That post test counseling, as specified under WAC 248-100-209(4), is required if an HIV test is positive or indeterminate;~~

~~(ii) That post test counseling occurs at the time a positive or indeterminate HIV test result is given to the tested individual;~~

~~((iii)) That the applicant may designate a health care provider or health care agency to whom the insurer, the health care service contractor, or health maintenance organization will provide ((positive or indeterminate)) test results indicative of infection with a blood-borne pathogen for interpretation ((and post-test counseling. When an applicant does not identify a designated health care provider or health care agency and the applicant's test results are either positive or indeterminate, the insurer, the health care service contractor, or health maintenance organization shall provide the test results to the local health department for interpretation and post test counseling)); and~~

~~((iv+))~~ (ii) That ((positive or indeterminate HIV)) test results ((shall not)) indicative of infection with a blood-borne pathogen will be sent directly to the applicant.

Sec. 13. RCW 70.24.340 and 2011 c 232 s 2 are each amended to read as follows:

~~((1) Local health departments authorized under this chapter shall conduct or cause to be conducted pretest counseling, HIV testing, and posttest counseling of all persons:~~

~~(a) Convicted of a sexual offense under chapter 9A.44 RCW;~~

~~(b) Convicted of prostitution or offenses relating to prostitution under chapter 9A.88 RCW; or~~

~~(c) Convicted of drug offenses under chapter 69.50 RCW if the court determines at the time of conviction that the related drug offense is one associated with the use of hypodermic needles.~~

~~(2) Such testing shall be conducted as soon as possible after sentencing and shall be so ordered by the sentencing judge.~~

~~(3) This section applies only to offenses committed after March 23, 1988.~~

~~(4))~~ A law enforcement officer, firefighter, health care provider, health care facility staff person, department of corrections' staff person, jail staff person, or person employed in other categories of employment ~~((determined by the board in rule))~~ to be at risk of ~~((substantial))~~ exposure ~~((to HIV))~~ that presents a possible risk of transmission of a blood-borne pathogen, who has experienced ~~((a substantial))~~ an exposure to another person's bodily fluids in the course of his or her employment, may request a state or local ~~((public))~~ health officer to order ~~((pretest counseling, HIV testing, and posttest counseling))~~ blood-borne pathogen testing for the person whose bodily fluids he or she has been exposed to. ~~((A person eligible to request a state or local health official to order HIV testing under this chapter and board rule may also request a state or local health officer to order testing for other blood-borne pathogens.))~~ If the state or local ~~((public))~~ health officer refuses to order ~~((counseling and))~~ testing under this ~~((sub))~~section, the person who made the request may petition the superior court for a hearing to determine whether an order shall be issued. The hearing on the petition shall be held within seventy-two hours of filing the petition, exclusive of Saturdays, Sundays, and holidays. The standard of review to determine whether the ~~((public))~~ state or local health officer shall be required to issue the order is whether ~~((substantial))~~ an exposure occurred and whether that exposure presents a possible risk of transmission of ~~((the HIV virus as defined by the board by rule))~~ a blood-borne pathogen. Upon conclusion of the hearing, the court shall issue the appropriate order~~((, which may require additional testing for other blood-borne pathogens))~~.

The person who is subject to the state or local ~~((public))~~ health officer's order to receive ~~((counseling and))~~ testing shall be given written notice of the order promptly, personally, and confidentially, stating the grounds and provisions of the order, including the factual basis therefor. If the person who is subject to the order refuses to comply, the state or local ~~((public))~~ health officer may petition the superior court for a hearing. The hearing on the petition shall be held within seventy-two hours of filing the petition, exclusive of Saturdays, Sundays, and holidays. The standard of review for the order is whether ~~((substantial))~~ an exposure occurred and whether that exposure presents a possible risk of transmission of ~~((the HIV virus as defined by the board by rule))~~ a blood-borne pathogen. Upon conclusion of the hearing, the court shall issue the appropriate order.

The state or local ~~((public))~~ health officer shall perform ~~((counseling and))~~ testing under this ~~((sub))~~section if he or she finds that the exposure ~~((was substantial and))~~ presents a possible risk ~~((as defined by the board of health by rule))~~ of transmission of a blood-borne pathogen or if he or she is ordered to do so by a court.

The ~~((counseling and))~~ testing required under this ~~((sub))~~section shall be completed as soon as possible after the substantial exposure or ~~((after an order is issued by a court, but shall begin not later than))~~, if ordered by the court, within seventy-two hours ((after the substantial exposure or an order is issued by the court)) of the order's issuance.

Sec. 14. RCW 70.24.360 and 1988 c 206 s 706 are each amended to read as follows:

Jail administrators, with the approval of the local ~~((public))~~ health officer, may order ~~((pretest counseling, HIV testing, and posttest counseling for~~

persons)) blood-borne pathogen testing for a person detained in the jail if the local ((public)) health officer determines that ((actual or threatened)) the detainee's behavior ((presents a possible risk to)) exposed the staff, general public, or other persons, and that exposure presents a possible risk of transmitting a blood-borne pathogen. ((Approval of the local public health officer shall be based on RCW 70.24.024(3) and may be contested through RCW 70.24.024(4). The administrator shall establish, pursuant to RCW 70.48.071, a procedure to document the possible risk which is the basis for the HIV testing. "Possible risk," as used in this section, shall be defined by the board in rule.)) Documentation of the behavior((-or threat thereof,)) shall be reviewed with the person to ((try to assure)) ensure that the person understands the basis for testing.

Sec. 15. RCW 70.24.370 and 1988 c 206 s 707 are each amended to read as follows:

(1) ((Department of corrections facility administrators may order pretest counseling, HIV testing, and posttest counseling for inmates if the secretary of corrections or the secretary's designee determines that actual or threatened)) The chief medical officer of the department of corrections may order blood-borne pathogen testing for an inmate if the chief medical officer or his or her designee determines that the inmate's behavior ((presents a possible risk to)) exposed the staff, general public, or other inmates, and that exposure presents a possible risk of transmitting a blood-borne pathogen. The department of corrections shall establish a procedure to document the exposure that presents a possible risk of transmitting a blood-borne pathogen which is the basis for the ((HIV)) testing. ((("Possible risk," as used in this section, shall be defined by the department of corrections after consultation with the board. Possible risk, as used in the documentation of the behavior, or threat thereof, shall be reviewed with the inmate.)) The chief medical officer, or his or her designee, shall review the exposure that presents a possible risk of transmitting a blood-borne pathogen in the documentation of the behavior with the inmate to ensure that he or she understands the basis for the testing.

(2) ((Department of corrections administrators and superintendents who are authorized to make decisions about testing and dissemination of test information shall, at least annually, participate in training seminars on public health considerations conducted by the assistant secretary for public health or her or his designee.

(3)) Administrative hearing requirements set forth in chapter 34.05 RCW do not apply to the procedure developed by the department of corrections pursuant to this section. This section shall not be construed as requiring any hearing process except as may be required under existing federal constitutional law.

((4) RCW 70.24.340 does not apply to the department of corrections or to inmates in its custody or subject to its jurisdiction.))

Sec. 16. RCW 9A.36.011 and 1997 c 196 s 1 are each amended to read as follows:

(1) A person is guilty of assault in the first degree if he or she, with intent to inflict great bodily harm:

(a) Assaults another with a firearm or any deadly weapon or by any force or means likely to produce great bodily harm or death; or

(b) Transmits HIV to a child or vulnerable adult; or

(c) Administers, exposes, or transmits to or causes to be taken by another, poison(~~(, the human immunodeficiency virus as defined in chapter 70.24 RCW,)~~) or any other destructive or noxious substance; or

~~((e))~~ (d) Assaults another and inflicts great bodily harm.

(2) Assault in the first degree is a class A felony.

Sec. 17. RCW 18.35.040 and 2014 c 189 s 4 are each amended to read as follows:

(1) An applicant for licensure as a hearing aid specialist must have the following minimum qualifications and shall pay a fee determined by the secretary as provided in RCW 43.70.250. An applicant shall be issued a license under the provisions of this chapter if the applicant has not committed unprofessional conduct as specified by chapter 18.130 RCW, and:

(a)(i) Satisfactorily completes the hearing aid specialist examination required by this chapter; and

(ii) Satisfactorily completes:

(A) A minimum of a two-year degree program in hearing aid specialist instruction. The program must be approved by the board;

(B) A two-year or four-year degree in a field of study approved by the board from an accredited institution, a nine-month board-approved certificate program offered by a board-approved hearing aid specialist program, and the practical examination approved by the board. The practical examination must be given at least quarterly, as determined by the board. The department may hire licensed industry experts approved by the board to proctor the examination; or

(b) Holds a current, unsuspended, unrevoked license from another jurisdiction if the standards for licensing in such other jurisdiction are substantially equivalent to those prevailing in this state as provided in (a) of this subsection; or

(c)(i) Holds a current, unsuspended, unrevoked license from another jurisdiction, has been actively practicing as a licensed hearing aid specialist in another jurisdiction for at least forty-eight of the last sixty months, and submits proof of completion of advance certification from either the international hearing society or the national board for certification in hearing instrument sciences; and

(ii) Satisfactorily completes the hearing aid specialist examination required by this chapter or a substantially equivalent examination approved by the board.

The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary (~~(and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board)~~).

(2)(a) An applicant for licensure as a speech-language pathologist or audiologist must have the following minimum qualifications:

(i) Has not committed unprofessional conduct as specified by the uniform disciplinary act;

(ii) Has a master's degree or the equivalent, or a doctorate degree or the equivalent, from a program at a board-approved institution of higher learning, which includes completion of a supervised clinical practicum experience as defined by rules adopted by the board; and

(iii) Has completed postgraduate professional work experience approved by the board.

(b) All qualified applicants must satisfactorily complete the speech-language pathology or audiology examinations required by this chapter.

(c) The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary (~~and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board~~).

(3) An applicant for certification as a speech-language pathology assistant shall pay a fee determined by the secretary as provided in RCW 43.70.250 and must have the following minimum qualifications:

(a) An associate of arts or sciences degree, or a certificate of proficiency, from a speech-language pathology assistant program from an institution of higher education that is approved by the board, as is evidenced by the following:

(i) Transcripts showing forty-five quarter hours or thirty semester hours of speech-language pathology coursework; and

(ii) Transcripts showing forty-five quarter hours or thirty semester hours of general education credit; or

(b) A bachelor of arts or bachelor of sciences degree, as evidenced by transcripts, from a speech, language, and hearing program from an institution of higher education that is approved by the board.

Sec. 18. RCW 49.44.180 and 2004 c 12 s 1 are each amended to read as follows:

It shall be unlawful for any person, firm, corporation, or the state of Washington, its political subdivisions, or municipal corporations to require, directly or indirectly, that any employee or prospective employee submit genetic information or submit to screening for genetic information as a condition of employment or continued employment.

"Genetic information" for purposes of this chapter, is information about inherited characteristics that can be derived from a DNA-based or other laboratory test, family history, or medical examination. "Genetic information" for purposes of this chapter, does not include: (1) Routine physical measurements, including chemical, blood, and urine analysis, unless conducted purposefully to diagnose genetic or inherited characteristics; and (2) results from tests for abuse of alcohol or drugs (~~or for the presence of HIV~~).

Sec. 19. RCW 49.60.172 and 2003 c 273 s 2 are each amended to read as follows:

(1) No person may require an individual to take an HIV (~~test, as defined in chapter 70.24 RCW,~~) or hepatitis C test, as a condition of hiring, promotion, or continued employment unless the absence of HIV or hepatitis C infection is a bona fide occupational qualification for the job in question.

(2) No person may discharge or fail or refuse to hire any individual, or segregate or classify any individual in any way which would deprive or tend to deprive that individual of employment opportunities or adversely affect his or her status as an employee, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of the results of an HIV test or hepatitis C test unless the absence of HIV or

hepatitis C infection is a bona fide occupational qualification of the job in question.

(3) The absence of HIV or hepatitis C infection as a bona fide occupational qualification exists when performance of a particular job can be shown to present a significant risk, as defined by the board of health by rule, of transmitting HIV or hepatitis C infection to other persons, and there exists no means of eliminating the risk by restructuring the job.

(4) For the purpose of this chapter, any person who is actually infected with HIV or hepatitis C, but is not disabled as a result of the infection, shall not be eligible for any benefits under the affirmative action provisions of chapter 49.74 RCW solely on the basis of such infection.

(5) Employers are immune from civil action for damages arising out of transmission of HIV or hepatitis C to employees or to members of the public unless such transmission occurs as a result of the employer's gross negligence.

Sec. 20. RCW 43.150.050 and 1992 c 66 s 5 are each amended to read as follows:

The center, working in cooperation with individuals, local groups, and organizations throughout the state, may undertake any program or activity for which funds are available which furthers the goals of this chapter. These programs and activities may include, but are not limited to:

(1) Providing information about programs, activities, and resources of value to volunteers and to organizations operating or planning volunteer or citizen service programs;

(2) Sponsoring recognition events for outstanding individuals and organizations;

(3) Facilitating the involvement of business, industry, government, and labor in community service and betterment;

(4) Organizing, or assisting in the organization of, training workshops and conferences;

(5) Publishing schedules of significant events, lists of published materials, accounts of successful programs and programming techniques, and other information concerning the field of volunteerism and citizen service, and distributing this information broadly;

(6) Reviewing the laws and rules of the state of Washington, and proposed changes therein, to determine their impact on the success of volunteer activities and programs, and recommending such changes as seem appropriate to ensure the achievement of the goals of this chapter;

(7) Seeking funding sources for enhancing, promoting, and supporting the ethic of service and facilitating or providing information to those organizations and agencies which may benefit;

(8) Providing information about agencies and individuals who are working to prevent the spread of the human immunodeficiency virus, as defined in chapter 70.24 RCW, and to agencies and individuals who are working to provide health and social services to persons ~~living with ((acquired immunodeficiency syndrome))~~ the human immunodeficiency virus, as defined in chapter 70.24 RCW.

Sec. 21. RCW 74.39.005 and 1995 1st sp.s. c 18 s 10 are each amended to read as follows:

The purpose of this chapter is to:

(1) Establish a balanced range of health, social, and supportive services that deliver long-term care services to ~~((chronically, functionally disabled))~~ persons with chronic functional disabilities of all ages;

(2) Ensure that functional ability shall be the determining factor in defining long-term care service needs and that these needs will be determined by a uniform system for comprehensively assessing functional disability;

(3) Ensure that services are provided in the most independent living situation consistent with individual needs;

(4) Ensure that long-term care service options shall be developed and made available that enable ~~((functionally disabled))~~ persons with functional disabilities to continue to live in their homes or other community residential facilities while in the care of their families or other volunteer support persons;

(5) Ensure that long-term care services are coordinated in a way that minimizes administrative cost, eliminates unnecessarily complex organization, minimizes program and service duplication, and maximizes the use of financial resources in directly meeting the needs of persons with functional limitations;

(6) Develop a systematic plan for the coordination, planning, budgeting, and administration of long-term care services now fragmented between the division of developmental disabilities, division of mental health, aging and adult services administration, division of children and family services, division of vocational rehabilitation, ~~((office on AIDS,))~~ division of health, ~~((and))~~ bureau of alcohol and substance abuse, and the department of health;

(7) Encourage the development of a statewide long-term care case management system that effectively coordinates the plan of care and services provided to eligible clients;

(8) Ensure that individuals and organizations affected by or interested in long-term care programs have an opportunity to participate in identification of needs and priorities, policy development, planning, and development, implementation, and monitoring of state supported long-term care programs;

(9) Support educational institutions in Washington state to assist in the procurement of federal support for expanded research and training in long-term care; and

(10) Facilitate the development of a coordinated system of long-term care education that is clearly articulated between all levels of higher education and reflective of both in-home care needs and institutional care needs of ~~((functionally disabled))~~ persons with functional disabilities.

NEW SECTION. Sec. 22. The following acts or parts of acts are each repealed:

(1) RCW 70.24.095 (Pregnant women—Drug treatment program participants—AIDS counseling) and 1988 c 206 s 705;

(2) RCW 70.24.100 (Syphilis laboratory tests) and 1991 c 3 s 323, 1979 c 141 s 95, & 1939 c 165 s 2;

(3) RCW 70.24.107 (Rule-making authority—1997 c 345) and 1999 c 372 s 14 & 1997 c 345 s 6;

(4) RCW 70.24.125 (Reporting requirements for sexually transmitted diseases—Rules) and 1988 c 206 s 905;

(5) RCW 70.24.140 (Certain infected persons—Sexual intercourse unlawful without notification) and 1988 c 206 s 917;

(6) RCW 70.24.200 (Information for the general public on sexually transmitted diseases—Emphasis) and 1988 c 206 s 201;

(7) RCW 70.24.210 (Information for children on sexually transmitted diseases—Emphasis) and 1988 c 206 s 202;

(8) RCW 70.24.240 (Clearinghouse for AIDS educational materials) and 1988 c 206 s 601;

(9) RCW 70.24.250 (Office on AIDS—Repository and clearinghouse for AIDS education and training material—University of Washington duties) and 1988 c 206 s 602;

(10) RCW 70.24.260 (Emergency medical personnel—Rules for AIDS education and training) and 1988 c 206 s 603;

(11) RCW 70.24.270 (Health professionals—Rules for AIDS education and training) and 1988 c 206 s 604;

(12) RCW 70.24.280 (Pharmacy quality assurance commission—Rules for AIDS education and training) and 2013 c 19 s 122 & 1988 c 206 s 605;

(13) RCW 70.24.300 (State and local government employees—Determination of substantial likelihood of exposure—Rules for AIDS education and training) and 1993 c 281 s 60 & 1988 c 206 s 607;

(14) RCW 70.24.310 (Health care facility employees—Rules for AIDS education and training) and 1988 c 206 s 608;

(15) RCW 70.24.320 (Counseling and testing—AIDS and HIV—Definitions) and 1988 c 206 s 701;

(16) RCW 70.24.350 (Prostitution and drug offenses—Voluntary testing and counseling) and 1988 c 206 s 704;

(17) RCW 70.24.380 (Board of health—Rules for counseling and testing) and 1988 c 206 s 709; and

(18) RCW 70.24.410 (AIDS advisory committee—Duties, review of insurance problems—Termination) and 1991 c 3 s 328 & 1988 c 206 s 803.

NEW SECTION. Sec. 23. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House February 12, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 19, 2020.

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

CHAPTER 77

[Substitute House Bill 2017]

ADMINISTRATIVE LAW JUDGES--COLLECTIVE BARGAINING

AN ACT Relating to collective bargaining for administrative law judges; amending RCW 34.12.030 and 34.12.100; reenacting and amending RCW 41.80.005 and 41.80.010; adding a new section to chapter 41.80 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that the independent adjudication services provided by administrative law judges of the office of administrative hearings are crucial to the due process rights of the citizens of this state and the just functioning of the government. Administrative law judges of

the office of administrative hearings are exempt from civil service under RCW 34.12.030(5). These administrative law judges currently have no mechanism through which to collectively bargain for salary increases. The legislature finds the office of administrative hearings has experienced increased difficulty recruiting and retaining administrative law judges due to the disparity in wages paid to administrative law judges as compared to similar public sector positions. This type of turnover is costly to the office of administrative hearings, negatively impacts morale, interferes with the ability of the office to develop a succession plan, and ultimately harms the citizens of this state. Therefore, it is the legislature's intent to empower these administrative law judges to collectively bargain for fair wages that will foster job satisfaction and the highest standards of professional competence among administrative law judges.

NEW SECTION. Sec. 2. A new section is added to chapter 41.80 RCW to read as follows:

(1) In addition to the agencies defined in RCW 41.80.005 and subject to the provisions of this section, this chapter applies to administrative law judges of the office of administrative hearings appointed under RCW 34.12.030(1).

(2) Administrative law judges of the office of administrative hearings who are not otherwise excluded from bargaining under subsection (3) of this section are granted the right to collectively bargain.

(3) The following administrative law judges of the office of administrative hearings are excluded from this section and do not have the right to collectively bargain:

(a) Administrative law judges in manager positions as defined in RCW 41.06.022, including deputy chief administrative law judges, division chief administrative law judges, and assistant chief administrative law judges;

(b) Administrative law judges serving on a contractual basis under RCW 34.12.030(2);

(c) Confidential employees as defined in RCW 41.80.005; and

(d) Any administrative law judge who reports directly to the chief administrative law judge.

(4) The only unit appropriate for the purpose of collective bargaining under this chapter is a statewide unit of all administrative law judges of the office of administrative hearings not otherwise excluded from bargaining.

Sec. 3. RCW 41.80.005 and 2019 c 234 s 1 and 2019 c 145 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) "Agency" means any agency as defined in RCW 41.06.020 and covered by chapter 41.06 RCW. "Agency" also includes the assistant attorneys general of the attorney general's office and the administrative law judges of the office of administrative hearings, regardless of whether those employees are exempt under chapter 41.06 RCW.

(2) "Collective bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under RCW 41.80.020. The obligation to bargain does not compel either party to

agree to a proposal or to make a concession, except as otherwise provided in this chapter.

(3) "Commission" means the public employment relations commission.

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who advise and represent managers or confidential employees in personnel or labor relations matters, or who advise or represent the state in tort actions.

(5) "Director" means the director of the public employment relations commission.

(6) "Employee" means any employee, including employees whose work has ceased in connection with the pursuit of lawful activities protected by this chapter, covered by chapter 41.06 RCW. "Employee" includes assistant attorneys general of the office of the attorney general and administrative law judges of the office of administrative hearings, regardless of their exemption under chapter 41.06 RCW. "Employee" does not include:

(a) Employees covered for collective bargaining by chapter 41.56 RCW;

(b) Confidential employees;

(c) Members of the Washington management service;

(d) Internal auditors in any agency; or

(e) Any employee of the commission, the office of financial management, or the office of risk management within the department of enterprise services.

(7) "Employee organization" means any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.

(8) "Employer" means the state of Washington.

(9) "Exclusive bargaining representative" means any employee organization that has been certified under this chapter as the representative of the employees in an appropriate bargaining unit.

(10) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(11) "Labor dispute" means any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment with respect to the subjects of bargaining provided in this chapter, regardless of whether the disputants stand in the proximate relation of employer and employee.

(12) "Manager" means "manager" as defined in RCW 41.06.022.

(13) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual

judgment. However, no employee who is a member of the Washington management service may be included in a collective bargaining unit established under this section.

(14) "Unfair labor practice" means any unfair labor practice listed in RCW 41.80.110.

(15) "Uniformed personnel" means duly sworn police officers employed as members of a police force established pursuant to RCW 28B.10.550.

Sec. 4. RCW 41.80.010 and 2019 c 415 s 961 and 2019 c 145 s 4 are each reenacted and amended to read as follows:

(1) For the purpose of negotiating collective bargaining agreements under this chapter, the employer shall be represented by the governor or governor's designee, except as provided for institutions of higher education in subsection (4) of this section.

(2)(a)(i) Except as otherwise provided, if an exclusive bargaining representative represents more than one bargaining unit, the exclusive bargaining representative shall negotiate with each employer representative as designated in subsection (1) of this section one master collective bargaining agreement on behalf of all the employees in bargaining units that the exclusive bargaining representative represents.

(ii) For those exclusive bargaining representatives who represent fewer than a total of five hundred employees each, negotiation shall be by a coalition of all those exclusive bargaining representatives. The coalition shall bargain for a master collective bargaining agreement covering all of the employees represented by the coalition. The governor's designee and the exclusive bargaining representative or representatives are authorized to enter into supplemental bargaining of agency-specific issues for inclusion in or as an addendum to the master collective bargaining agreement, subject to the parties' agreement regarding the issues and procedures for supplemental bargaining. Exclusive bargaining representatives that represent employees covered under chapter 41.06 RCW and exclusive bargaining representatives that represent employees exempt under chapter 41.06 RCW shall constitute separate coalitions and must negotiate separate master collective bargaining agreements. This ((section)) subsection does not prohibit cooperation and coordination of bargaining between two or more exclusive bargaining representatives.

(b) This subsection ((2)) does not apply to exclusive bargaining representatives who represent employees of institutions of higher education, except when the institution of higher education has elected to exercise its option under subsection (4) of this section to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(c) If five hundred or more employees of an independent state elected official listed in RCW 43.01.010 are organized in a bargaining unit or bargaining units under RCW 41.80.070, the official shall be consulted by the governor or the governor's designee before any agreement is reached under (a) of this subsection concerning supplemental bargaining of agency specific issues affecting the employees in such bargaining unit.

(d) For assistant attorneys general, the governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement.

(3) The governor shall submit a request for funds necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreement or for legislation necessary to implement the agreement. Requests for funds necessary to implement the provisions of bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(a) Have been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the requests are to be considered; and

(b) Have been certified by the director of the office of financial management as being feasible financially for the state.

The legislature shall approve or reject the submission of the request for funds as a whole. The legislature shall not consider a request for funds to implement a collective bargaining agreement unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 41.80.090.

(4)(a)(i) For the purpose of negotiating agreements for institutions of higher education, the employer shall be the respective governing board of each of the universities, colleges, or community colleges or a designee chosen by the board to negotiate on its behalf.

(ii) A governing board of a university or college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section, except that:

(A) The governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of a university or college that the representative represents; or

(B) If the parties mutually agree, the governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of more than one university or college that the representative represents.

(iii) A governing board of a community college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(b) Prior to entering into negotiations under this chapter, the institutions of higher education or their designees shall consult with the director of the office of financial management regarding financial and budgetary issues that are likely to arise in the impending negotiations.

(c)(i) In the case of bargaining agreements reached between institutions of higher education other than the University of Washington and exclusive bargaining representatives agreed to under the provisions of this chapter, if appropriations are necessary to implement the compensation and fringe benefit provisions of the bargaining agreements, the governor shall submit a request for

such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in (c)(iii) of this subsection.

(ii) In the case of bargaining agreements reached between the University of Washington and exclusive bargaining representatives agreed to under the provisions of this chapter, if appropriations are necessary to implement the compensation and fringe benefit provisions of a bargaining agreement, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in this subsection (4)(c)(ii) and as provided in (c)(iii) of this subsection.

(A) If appropriations of less than ten thousand dollars are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request has been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the request is to be considered.

(B) If appropriations of ten thousand dollars or more are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request:

(I) Has been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the request is to be considered; and

(II) Has been certified by the director of the office of financial management as being feasible financially for the state.

(C) If the director of the office of financial management does not certify a request under (c)(ii)(B) of this subsection as being feasible financially for the state, the parties shall enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification of the agreement necessary to address the absence of those requested funds. The legislature may act upon the compensation and fringe benefit provisions of the modified collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(iii) In the case of a bargaining unit of employees of institutions of higher education in which the exclusive bargaining representative is certified during or after the conclusion of a legislative session, the legislature may act upon the compensation and fringe benefit provisions of the unit's initial collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(5) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(6) After the expiration date of a collective bargaining agreement negotiated under this chapter, all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in

the agreement. Thereafter, the employer may unilaterally implement according to law.

(7)(a) For the 2019-2021 fiscal biennium, the legislature may approve funding for a collective bargaining agreement negotiated by a higher education institution and the Washington federation of state employees and ratified by the exclusive bargaining representative before final legislative action on the omnibus appropriations act by the sitting legislature.

(b) Subsection (3)(a) and (b) of this section do not apply to requests for funding made pursuant to this subsection.

Sec. 5. RCW 34.12.030 and 1981 c 67 s 3 are each amended to read as follows:

(1) The chief administrative law judge shall appoint administrative law judges to fulfill the duties prescribed in this chapter. All administrative law judges shall have a demonstrated knowledge of administrative law and procedures. The chief administrative law judge may establish different levels of administrative law judge positions.

(2) The chief administrative law judge may also contract with qualified individuals to serve as administrative law judges for specified hearings. Such individuals shall be compensated for their services on a contractual basis for each hearing, in accordance with chapter 43.88 RCW. The chief administrative law judge may not contract with any individual who is at that time an employee of the state.

(3) The chief administrative law judge may appoint such clerical and other specialized or technical personnel as may be necessary to carry on the work of this chapter.

(4) ~~((The))~~ Subject to any collective bargaining agreement, the administrative law judges appointed under subsection (1) of this section are subject to discipline and termination, for cause, by the chief administrative law judge. Upon written request by the person so disciplined or terminated, the chief administrative law judge shall forthwith put the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(5) All employees of the office except the chief administrative law judge and the administrative law judges are subject to chapter 41.06 RCW.

(6) Administrative law judges appointed under subsection (1) of this section have the right to collectively bargain under chapter 41.80 RCW, regardless of their exemption from chapter 41.06 RCW.

(7) The office may adopt rules for its own operation and in furtherance of this chapter in accordance with chapter 34.05 RCW.

Sec. 6. RCW 34.12.100 and 2015 3rd sp.s. c 1 s 310 are each amended to read as follows:

The chief administrative law judge shall be paid a salary fixed by the governor after recommendation of the director of financial management. ~~((The))~~ Subject to any collective bargaining agreement, the salaries of administrative law judges appointed under the terms of this chapter shall be determined by the chief administrative law judge after recommendation of the director of financial management.

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 February 13, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 19, 2020.

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

CHAPTER 78

[Engrossed House Bill 2188]

MILITARY VETERANS--COMMERCIAL DRIVER'S LICENSE QUALIFICATION WAIVERS

AN ACT Relating to increasing the types of commercial driver's license qualification waivers allowed for military veterans; amending RCW 46.25.060; creating a new section; and providing an effective date.

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

NEW SECTION. **Sec. 1.** Over half a million United States military veterans live in Washington state and contribute to the state's economic vitality. While active military, many trained in civilian occupations and were well-prepared to contribute to the state as civilians once they left military service. However, many job markets are regulated through licensing, and veterans can find themselves at a disadvantage in obtaining these licenses compared with those trained in the private sector.

Commercial truck and bus drivers are in high demand; individuals are required to have commercial driver's licenses to qualify for these jobs. In the case of military veterans who obtain the necessary driving experience while in the military, there is already a waiver program in place to enable these veterans to waive out of the skills examination and course of instruction requirements. However, they are still required to take the knowledge test to obtain a commercial driver's license in Washington.

The legislature believes that expanding the waiver program to include the knowledge test will remove an unnecessary obstacle for qualifying veterans. The legislature values the military service of veterans and believes that the removal of this barrier will enable qualifying veterans to more quickly apply the skills they acquired in the military to serve their communities as they have served the country.

Sec. 2. RCW 46.25.060 and 2015 3rd sp.s. c 44 s 207 are each amended to read as follows:

(1)(a) No person may be issued a commercial driver's license unless that person:

- (i) Is a resident of this state;
- (ii) Has successfully completed a course of instruction in the operation of a commercial motor vehicle that has been approved by the director or has been certified by an employer as having the skills and training necessary to operate a commercial motor vehicle safely;
- (iii) If he or she does not hold a valid commercial driver's license of the appropriate classification, has been issued a commercial learner's permit under RCW 46.25.052; and

(iv) Has passed a knowledge and skills examination for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. Part 383, subparts F, G, and H, in addition to other requirements imposed by state law or federal regulation. The department may not allow the person to take the skills examination during the first fourteen days after initial issuance of the person's commercial learner's permit. The examinations must be prescribed and conducted by the department.

(b) In addition to the fee charged for issuance or renewal of any license, the applicant shall pay a fee of no more than ten dollars until June 30, 2016, and thirty-five dollars beginning July 1, 2016, for the classified knowledge examination, classified endorsement knowledge examination, or any combination of classified license and endorsement knowledge examinations. The applicant shall pay a fee of no more than one hundred dollars until June 30, 2016, and two hundred fifty dollars beginning July 1, 2016, for each classified skill examination or combination of classified skill examinations conducted by the department.

(c) The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills examination specified by this section under the following conditions:

(i) The examination is the same which would otherwise be administered by the state;

(ii) The third party has entered into an agreement with the state that complies with the requirements of 49 C.F.R. Sec. 383.75; and

(iii) The director has adopted rules as to the third party testing program and the development and justification for fees charged by any third party.

(d) If the applicant's primary use of a commercial driver's license is for any of the following, then the applicant shall pay a fee of no more than seventy-five dollars until June 30, 2016, and two hundred twenty-five dollars beginning July 1, 2016, for the classified skill examination or combination of classified skill examinations whether conducted by the department or a third-party tester:

(i) Public benefit not-for-profit corporations that are federally supported head start programs; or

(ii) Public benefit not-for-profit corporations that support early childhood education and assistance programs as described in RCW ((43.215.405(2))) 43.216.505.

(e) Beginning July 1, 2016, if the applicant's primary use of a commercial driver's license is to drive a school bus, the applicant shall pay a fee of no more than one hundred dollars for the classified skill examination or combination of classified skill examinations conducted by the department.

(f) Beginning July 1, 2016, payment of the examination fees under this subsection entitles the applicant to take the examination up to two times in order to pass.

(2)(a) The department may waive the skills examination and the requirement for completion of a course of instruction in the operation of a commercial motor vehicle specified in this section for a commercial driver's license applicant who meets the requirements of 49 C.F.R. Sec. 383.77. For

current or former military service members that meet the requirements of 49 C.F.R. Sec. 383.77, the department may also waive the requirements for a knowledge test for commercial driver's license applicants. Beginning December 1, 2021, the department shall provide an annual report to the house and senate transportation committees and the joint committee on veterans' and military affairs of the legislature on the number and types of waivers granted pursuant to this subsection.

(b) An applicant who operates a commercial motor vehicle for agribusiness purposes is exempt from the course of instruction completion and employer skills and training certification requirements under this section. By January 1, 2010, the department shall submit recommendations regarding the continuance of this exemption to the transportation committees of the legislature. For purposes of this subsection (2)(b), "agribusiness" means a private carrier who in the normal course of business primarily transports:

(i) Farm machinery, farm equipment, implements of husbandry, farm supplies, and materials used in farming;

(ii) Agricultural inputs, such as seed, feed, fertilizer, and crop protection products;

(iii) Unprocessed agricultural commodities, as defined in RCW 17.21.020, where such commodities are produced by farmers, ranchers, vineyardists, or orchardists; or

(iv) Any combination of (b)(i) through (iii) of this subsection.

The department shall notify the transportation committees of the legislature if the federal government takes action affecting the exemption provided in this subsection (2)(b).

(3) A commercial driver's license or commercial learner's permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked, or canceled in any state, nor may a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state for cancellation.

(4) The fees under this section must be deposited into the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 207, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

NEW SECTION. **Sec. 3.** This act takes effect January 1, 2021.

Passed by the House February 16, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 19, 2020.

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

CHAPTER 79

[Engrossed Second Substitute House Bill 2311]

GREENHOUSE GAS EMISSION LIMITS--AMENDMENT

AN ACT Relating to amending state greenhouse gas emission limits for consistency with the most recent assessment of climate change science; amending RCW 70.235.020 and 70.235.050; reenacting and amending RCW 70.235.010; adding a new section to chapter 70.235 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** (1) Global climate change represents an existential threat to the livelihoods, health, and well-being of all Washingtonians. Our state is experiencing a climate emergency in the form of devastating wildfires, drought, lack of snowpack, and increases in ocean acidification caused in part by climate change.

(2) These threats are not distributed evenly across the state. In particular, rural communities with natural resource-based economies, tribes, and communities of lower and moderate incomes will be disproportionately exposed to health and economic impacts driven by climate change.

(3) The longer we delay in taking definitive action to reduce greenhouse gas emissions, the greater the threat posed by climate change to current and future generations, and the more costly it will be to protect and maintain our communities against the impacts of climate change. Unchecked, climate change will bring ever more drastic decline to the health and prosperity of future generations, particularly for the most vulnerable communities.

(4) According to the climate impacts group at the University of Washington, with global warming of at least one and one-half degrees Celsius, by 2050 Washington is projected to experience:

(a) An increase of sixty-seven percent in the number of days per year above ninety degrees Fahrenheit, relative to 1976-2005, leading to an increased risk of heat-related illness and death, warmer streams, and more frequent algal blooms;

(b) A decrease of thirty-eight percent in the state's snowpack, relative to 1970-1999, leading to reduced water storage, irrigation shortages, and winter and summer recreation losses;

(c) An increase of sixteen percent in winter streamflow, relative to 1970-1999, leading to an increased risk of river flooding;

(d) A decrease of twenty-three percent in summer streamflow, relative to 1970-1999, leading to reduced summer hydropower, conflicts over water resources, and negative effects on salmon populations; and

(e) An increase of one and four-tenths feet in sea level, relative to 1991-2010, leading to coastal flooding and inundation, damage to coastal infrastructure, and bluff erosion.

(5) The legislature has taken steps to understand and address the threats posed by climate change as climate change science has continued to evolve. In

2008 with the passage of Engrossed Second Substitute House Bill No. 2815, chapter 70.235 RCW, the legislature acknowledged Washington's history of national and international leadership in clean energy, and set limits on the greenhouse gas emissions that drive climate change.

(6) Chapter 70.235 RCW recognizes that the state of climate change science will continue to evolve, and so it directs the department of ecology to consult with the climate impacts group at the University of Washington for the purpose of issuing periodic reports that summarize the current climate change science and that make recommendations regarding whether the state's greenhouse gas emissions reductions need to be updated. As required by chapter 70.235 RCW, the department of ecology prepared and submitted reviews of current climate change science and the state of global warming trends in both December 2016, Ecology Publication No. 16-01-010, and again in December 2019, Ecology Publication No. 19-02-031. The most recent report underscores the need for Washington to take immediate and aggressive action to reduce greenhouse gas emissions, the primary cause of global climate change.

(7) Based on the current science and emissions trends, as reported by the department of ecology and the climate impacts group at the University of Washington, the legislature finds that avoiding global warming of at least one and one-half degrees Celsius is possible only if global greenhouse gas emissions start to decline precipitously, and as soon as possible. Restoring a safe and stable climate will require mobilization across all levels of government and economic sectors, including agriculture, manufacturing, transportation, and energy production, to reach net zero greenhouse gas emissions by 2050. Washington must therefore further strengthen its emissions reduction targets for 2030 and beyond. In addition, all pathways to one and one-half degrees Celsius rely on some amount of negative emissions through carbon sequestration. It is therefore the intent of the legislature to strengthen Washington's statutory greenhouse gas emission limits to reflect current science and to align with the limits that other jurisdictions are setting to combat climate change and to encourage voluntary actions that increase carbon sequestration on natural and working lands and storage in the related products from those lands.

(8) In strengthening Washington's statutory greenhouse gas emission limits, it is the intent of the legislature to pursue these limits in a way that:

(a) Reduces the burdens and creates benefits for vulnerable populations and highly impacted communities with long-term and short-term outcomes for public health, economic well-being, local environments, and community resiliency that benefits all Washington residents;

(b) Supports the current skilled and trained construction workforce, retains and creates other high quality employment opportunities, and generates broad, widely shared economic benefits for the state and Washington residents; and

(c) Maintains Washington's manufacturing economy and avoids leakage of emissions to other jurisdictions.

Sec. 2. RCW 70.235.020 and 2008 c 14 s 3 are each amended to read as follows:

(1)(a) The state shall limit anthropogenic emissions of greenhouse gases to achieve the following emission reductions for Washington state:

(i) By 2020, reduce overall emissions of greenhouse gases in the state to 1990 levels, or ninety million five hundred thousand metric tons;

(ii) By ~~((2035))~~ 2030, reduce overall emissions of greenhouse gases in the state to ~~((twenty-five))~~ fifty million metric tons, or forty-five percent below 1990 levels;

(iii) By ~~((2050, the state will do its part to reach global climate stabilization levels by reducing overall emissions to fifty percent below 1990 levels, or seventy percent below the state's expected emissions that year))~~ 2040, reduce overall emissions of greenhouse gases in the state to twenty-seven million metric tons, or seventy percent below 1990 levels;

(iv) By 2050, reduce overall emissions of greenhouse gases in the state to five million metric tons, or ninety-five percent below 1990 levels.

(b) By December 1, 2008, the department shall submit a greenhouse gas reduction plan for review and approval to the legislature, describing those actions necessary to achieve the emission reductions in (a) of this subsection by using existing statutory authority and any additional authority granted by the legislature. Actions taken using existing statutory authority may proceed prior to approval of the greenhouse gas reduction plan.

(c) In addition to the emissions limits specified in (a) of this subsection, the state shall also achieve net zero greenhouse gas emissions by 2050. Except where explicitly stated otherwise, nothing in chapter 14, Laws of 2008 limits any state agency authorities as they existed prior to June 12, 2008.

(d) Consistent with this directive, the department shall take the following actions:

(i) Develop and implement a system for monitoring and reporting emissions of greenhouse gases as required under RCW 70.94.151; and

(ii) Track progress toward meeting the emission reductions established in this subsection, including the results from policies currently in effect that have been previously adopted by the state and policies adopted in the future, and report on that progress. Progress reporting should include statewide emissions as well as emissions from key sectors of the economy including, but not limited to, electricity, transportation, buildings, manufacturing, and agriculture.

(c) Nothing in this section creates any new or additional regulatory authority for any state agency as they existed prior to January 1, 2019.

(2) By December 31st of each even-numbered year beginning in 2010, the department and the department of ~~((community, trade, and economic development))~~ commerce shall report to the governor and the appropriate committees of the senate and house of representatives the total emissions of greenhouse gases for the preceding two years, and totals in each major source sector. The report must include greenhouse gas emissions from wildfires, developed in consultation with the department of natural resources. The department shall ensure the reporting rules adopted under RCW 70.94.151 allow it to develop a comprehensive inventory of emissions of greenhouse gases from all significant sectors of the Washington economy.

(3) Except for purposes of reporting, emissions of carbon dioxide from industrial combustion of biomass in the form of fuel wood, wood waste, wood by-products, and wood residuals shall not be considered a greenhouse gas as long as the region's silvicultural sequestration capacity is maintained or increased.

Sec. 3. RCW 70.235.050 and 2015 c 225 s 110 are each amended to read as follows:

(1) ~~((All state))~~ State agencies shall meet the statewide greenhouse gas emission limits established in RCW 70.235.020 to achieve the following, using the estimates and strategy established in subsections (2) and (3) of this section:

(a) By July 1, 2020, reduce emissions ~~((by))~~ of greenhouse gases to eight hundred five thousand metric tons, or fifteen percent ~~((from))~~ below 2005 emission levels;

(b) By ~~((2035))~~ 2030, reduce emissions of greenhouse gases to ~~((thirty-six))~~ five hundred twenty-one thousand metric tons, or forty-five percent below 2005 levels; ~~((and))~~

(c) ~~((By 2050, reduce emissions to the greater reduction of fifty-seven and one-half percent below 2005 levels, or seventy percent below the expected state government emissions that year))~~ By 2040, reduce emissions of greenhouse gases to two hundred eighty-four thousand metric tons, or seventy percent below 2005 levels; and

(d) By 2050, reduce overall emissions of greenhouse gases to forty-seven thousand metric tons, or ninety-five percent below 2005 levels and achieve net zero greenhouse gas emissions by state government as a whole.

(2)(a) ~~((All))~~ state agencies shall report estimates of emissions for 2005 to the department, including 2009 levels of emissions, and projected emissions through 2035.

(b) State agencies required to report under RCW 70.94.151 must estimate emissions from methodologies recommended by the department and must be based on actual operation of those agencies. Agencies not required to report under RCW 70.94.151 shall derive emissions estimates using an emissions calculator provided by the department.

(3) ~~((By June 30, 2011, each state agency shall submit to the department a strategy to meet the requirements in subsection (1) of this section. The strategy must address employee travel activities, teleconferencing alternatives, and include existing and proposed actions, a timeline for reductions, and recommendations for budgetary and other incentives to reduce emissions, especially from employee business travel.~~

~~((4))~~ By ~~((October))~~ June 1st of each even-numbered year beginning in ~~((2012))~~ 2022, ~~((each))~~ state ~~((agency))~~ agencies shall report to the department ~~((the actions taken to meet the emission reduction targets under the strategy for the preceding fiscal biennium)),~~ and to the state efficiency and environmental performance office at the department of commerce, the actions planned for the next two biennia to meet emission reduction targets and the actions taken to meet the emission reduction targets established in this section. The report must also include the agency's long-term strategy for meeting the emission reduction targets established in this section, which the agency shall update as appropriate. The department and the state efficiency and environmental performance office at the department of commerce shall review and compile the agency reports and, by December 1st of each even-numbered year beginning in 2022, provide a consolidated report to the appropriate committees of the legislature. This report must include recommendations for budgetary and other actions that will assist state agencies in achieving the greenhouse gas emissions reductions specified in this section. The department may authorize the department of enterprise services to report on behalf of any state agency having fewer than five hundred full-time equivalent employees at any time during the reporting period. The department

shall cooperate with the department of enterprise services and the state efficiency and environmental performance office at the department of commerce to develop consolidated reporting methodologies that incorporate emission reduction actions taken across all or substantially all state agencies.

~~((5) All state))~~ (4) State agencies shall cooperate in providing information to the department, the department of enterprise services, and the department of commerce for the purposes of this section.

~~((6) The governor shall designate a person as the single point of accountability for all energy and climate change initiatives within state agencies. This position must be funded from current full-time equivalent allocations without increasing budgets or staffing levels. If duties must be shifted within an agency, they must be shifted among current full-time equivalent allocations. All agencies, councils, or work groups with energy or climate change initiatives shall coordinate with this designee.))~~

NEW SECTION. Sec. 4. A new section is added to chapter 70.235 RCW to read as follows:

(1) Separate and apart from the emissions limits established in RCW 70.235.020, it is the policy of the state to promote the removal of excess carbon from the atmosphere through voluntary and incentive-based sequestration activities in Washington including, but not limited to, on natural and working lands and by recognizing the potential for sequestration in products and product supply chains. It is the policy of the state to prioritize carbon sequestration in amounts necessary to achieve the carbon neutrality goal established in RCW 70.235.020, and at a level consistent with pathways to limit global warming to one and one-half degrees.

(2)(a) All agencies of state government including, but not limited to, the department, the department of natural resources, the department of transportation, the department of fish and wildlife, the department of agriculture, the department of commerce, the recreation and conservation office, and the conservation commission, shall seek all practicable opportunities, consistent with existing legal mandates and requirements and statutory objectives, to cost-effectively maximize carbon sequestration and carbon storage in their nonland management agency operations, contracting, and grant-making activities.

(b) Any such effort to promote carbon sequestration activities that affects support for, or management of private lands or trust lands managed by the department of natural resources must be done in cooperation with the owners and managers of those natural and working lands.

Sec. 5. RCW 70.235.010 and 2019 c 284 s 2 are each reenacted and amended to read as follows:

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

(1) "Carbon dioxide equivalents" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(2) "Class I substance" and "class II substance" means those substances listed in 42 U.S.C. Sec. 7671a, as it read on November 15, 1990, or those substances listed in Appendix A or B of Subpart A of 40 C.F.R. Part 82, as those read on January 3, 2017.

(3) "Climate advisory team" means the stakeholder group formed in response to executive order 07-02.

(4) "Climate impacts group" means the University of Washington's climate impacts group.

(5) "Department" means the department of ecology.

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

(7) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or gases designated by the department by rule.

(8) "Hydrofluorocarbons" means a class of greenhouse gases that are saturated organic compounds containing hydrogen, fluorine, and carbon.

(9) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces any product that contains or uses hydrofluorocarbons or is an importer or domestic distributor of such a product.

(10) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of the state.

(11) "Program" means the department's climate change program.

(12) "Residential consumer refrigeration products" has the same meaning as defined in section 430.2 of Subpart A of 10 C.F.R. Part 430 (2017).

(13) "Retrofit" has the same meaning as defined in section 152 of Subpart F of 40 C.F.R. Part 82, as that section existed as of January 3, 2017.

(14) "Substitute" means a chemical, product substitute, or alternative manufacturing process, whether existing or new, that is used to perform a function previously performed by a class I substance or class II substance and any substitute subsequently adopted to perform that function, including, but not limited to, hydrofluorocarbons. "Substitute" does not include 2-BTP or any compound as applied to its use in aerospace fire extinguishing systems.

(15) "Western climate initiative" means the collaboration of states, Canadian provinces, Mexican states, and tribes to design a multisector market-based mechanism as directed under the western regional climate action initiative signed by the governor on February 22, 2007.

(16) "Carbon sequestration" means the process of capturing and storing atmospheric carbon dioxide through biologic, chemical, geologic, or physical processes.

Passed by the House February 16, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 19, 2020.

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

CHAPTER 80

[Substitute House Bill 2378]

PHYSICIAN ASSISTANTS--VARIOUS PROVISIONS

AN ACT Relating to physician assistants; amending RCW 18.71A.020, 18.71A.025, 18.71A.030, 18.71A.050, 18.71A.090, 7.68.030, 18.06.140, 18.57.003, 18.79.040, 18.79.060, 18.79.240, 18.79.270, 18.100.050, 18.120.020, 18.130.410, 18.250.010, 28A.210.090, 43.70.220, 43.70.470, 46.19.010, 46.61.506, 46.61.508, 48.42.100, 48.43.094, 48.43.115, 51.04.030, 51.28.100,

69.41.030, 69.45.010, 70.41.210, 70.54.400, 70.128.120, 70.185.090, 70.225.040, 71.32.020, 74.09.010, 74.42.230, and 82.04.050; reenacting and amending RCW 18.71A.010, 18.79.260, 18.89.020, 18.130.040, 18.360.010, 43.70.110, 43.70.442, 69.41.010, 69.50.101, 69.51A.010, 70.180.030, 71.05.020, 71.24.025, 71.34.020, and 74.42.010; adding new sections to chapter 18.71A RCW; creating a new section; repealing RCW 18.57A.010, 18.57A.020, 18.57A.023, 18.57A.025, 18.57A.030, 18.57A.035, 18.57A.040, 18.57A.050, 18.57A.060, 18.57A.070, 18.57A.080, 18.57A.090, 18.57A.100, 18.57A.800, 18.57A.810, 18.71A.035, and 18.71A.040; providing effective dates; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature intends to modernize the practice of physician assistants in order to increase access to care, reduce barriers to employment of physician assistants, and optimize the manner in which physician assistants deliver quality medical care.

Sec. 2. RCW 18.71A.010 and 2019 c 55 s 5 are each reenacted and amended to read as follows:

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

(1) "Commission" means the Washington medical commission.

(2) "Department" means the department of health.

(3) "Physician assistant" means a person who is licensed by the commission to practice medicine ~~((to a limited extent only under the supervision of a physician as defined in chapter 18.71 RCW))~~ according to a practice agreement with one or more participating physicians, with at least one of the physicians working in a supervisory capacity, and who is academically and clinically prepared to provide health care services and perform diagnostic, therapeutic, preventative, and health maintenance services.

(4) "Practice medicine" has the meaning defined in RCW 18.71.011 and also includes the practice of osteopathic medicine and surgery as defined in RCW 18.57.001.

(5) "Secretary" means the secretary of health or the secretary's designee.

(6) "Physician" means a physician licensed under chapter 18.57 or 18.71 RCW.

(7) "Practice agreement" means an agreement entered under section 6 of this act.

Sec. 3. RCW 18.71A.020 and 2019 c 55 s 6 are each amended to read as follows:

(1) The commission shall adopt rules fixing the qualifications and the educational and training requirements for licensure as a physician assistant or for those enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the commission and within one year successfully take and pass an examination approved by the commission, if the examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program. An interim permit may be granted by the department of health for one year provided the applicant meets all other requirements. Physician assistants licensed by the board of medical examiners, or the commission as of July 1, 1999, shall continue to be licensed.

(2)(a) The commission shall adopt rules governing the extent to which:

(i) Physician assistant students may practice medicine during training; and

(ii) Physician assistants may practice after successful completion of a physician assistant training course.

(b) Such rules shall provide:

(i) That the practice of a physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each physician assistant shall practice medicine only under ~~((the supervision and control of a))~~ the terms of one or more practice agreements, each signed by one or more supervising physicians licensed in this state ~~((, but such supervision and control))~~. A practice agreement may be signed electronically using a method for electronic signatures approved by the commission. Supervision shall not be construed to necessarily require the personal presence of the supervising physician or physicians at the place where services are rendered.

(3) Applicants for licensure shall file an application with the commission on a form prepared by the secretary with the approval of the commission, detailing the education, training, and experience of the physician assistant and such other information as the commission may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. A surcharge of fifty dollars per year shall be charged on each license renewal or issuance of a new license to be collected by the department and deposited into the impaired physician account for physician assistant participation in the impaired physician program. Each applicant shall furnish proof satisfactory to the commission of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the commission and is eligible to take the examination approved by the commission;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing medicine as a physician assistant with reasonable skill and safety. The commission may require an applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical or mental capability, or both, to safely practice as a physician assistant.

(4)(a) The commission may approve, deny, or take other disciplinary action upon the application for license as provided in the Uniform Disciplinary Act, chapter 18.130 RCW.

(b) The license shall be renewed as determined under RCW 43.70.250 and 43.70.280. The commission shall request licensees to submit information about their current professional practice at the time of license renewal and licensees must provide the information requested. This information may include practice setting, medical specialty, or other relevant data determined by the commission.

~~((The commission may authorize the use of alternative supervisors who are licensed either under chapter 18.57 or 18.71 RCW.))~~

(5) All funds in the impaired physician account shall be paid to the contract entity within sixty days of deposit.

Sec. 4. RCW 18.71A.025 and 1986 c 259 s 106 are each amended to read as follows:

(1) The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

(2) The commission shall consult with the board of osteopathic medicine and surgery when investigating allegations of unprofessional conduct against a licensee who has a supervising physician licensed under chapter 18.57 RCW.

Sec. 5. RCW 18.71A.030 and 2016 c 155 s 23 are each amended to read as follows:

(1) A physician assistant may practice medicine in this state (~~(only with the approval of the delegation agreement by the commission and only)~~) to the extent permitted by the (~~(commission. A physician assistant who has received a license but who has not received commission approval of the delegation agreement under RCW 18.71A.040 may not)~~) practice agreement. A physician assistant shall be subject to discipline under chapter 18.130 RCW.

(2) Physician assistants may provide services that they are competent to perform based on their education, training, and experience and that are consistent with their (~~(commission approved delegation)~~) practice agreement. The supervising physician and the physician assistant shall determine which procedures may be performed and the (~~(degree of)~~) supervision under which the procedure is performed. Physician assistants may practice in any area of medicine or surgery as long as the practice is not beyond the supervising physician's own scope of expertise and clinical practice and the practice agreement.

(3) A physician assistant delivering general anesthesia or intrathecal anesthesia pursuant to a practice agreement with a physician shall show evidence of adequate education and training in the delivery of the type of anesthesia being delivered on his or her practice agreement.

NEW SECTION. Sec. 6. A new section is added to chapter 18.71A RCW to read as follows:

(1) Prior to commencing practice, a physician assistant licensed in Washington state must enter into a practice agreement with a physician or group of physicians, at least one of whom must be working in a supervisory capacity.

(a) Entering into a practice agreement is voluntary for the physician assistant and the supervising physician. A physician may not be compelled to participate in a practice agreement as a condition of employment.

(b) Prior to entering into the practice agreement, the physician, physicians, or their designee must verify the physician assistant's credentials.

(c) The protections of RCW 43.70.075 apply to any physician who reports to the commission acts of retaliation or reprisal for declining to sign a practice agreement.

(d) The practice agreement must be maintained by the physician assistant's employer or at his or her place of work and must be made available to the commission upon request.

(e) The commission shall develop a model practice agreement.

(f) The commission shall establish administrative procedures, administrative requirements, and fees as provided in RCW 43.70.250 and 43.70.280.

(2) A practice agreement must include all of the following:

(a) The duties and responsibilities of the physician assistant, the supervising physician, and alternate physicians. The practice agreement must describe supervision requirements for specified procedures or areas of practice. The

practice agreement may only include acts, tasks, or functions that the physician assistant and supervising physician or alternate physicians are qualified to perform by education, training, or experience and that are within the scope of expertise and clinical practice of both the physician assistant and the supervising physician or alternate physicians, unless otherwise authorized by law, rule, or the commission;

(b) A process between the physician assistant and supervising physician or alternate physicians for communication, availability, and decision making when providing medical treatment to a patient or in the event of an acute health care crisis not previously covered by the practice agreement, such as a flu pandemic or other unforeseen emergency. Communications may occur in person, electronically, by telephone, or by an alternate method;

(c) If there is only one physician party to the practice agreement, a protocol for designating an alternate physician for consultation in situations in which the physician is not available;

(d) The signature of the physician assistant and the signature or signatures of the supervising physician. A practice agreement may be signed electronically using a method for electronic signatures approved by the commission; and

(e) A termination provision. A physician assistant or physician may terminate the practice agreement as it applies to a single supervising physician without terminating the agreement with respect to the remaining participating physicians. If the termination results in no supervising physician being designated on the agreement, a new supervising physician must be designated for the agreement to be valid.

(i) Except as provided in (e)(ii) of this subsection, the physician assistant or supervising physician must provide written notice at least thirty days prior to the termination.

(ii) The physician assistant or supervising physician may terminate the practice agreement immediately due to good faith concerns regarding unprofessional conduct or failure to practice medicine while exercising reasonable skill and safety.

(3) A practice agreement may be amended for any reason, such as to add or remove supervising physicians or alternate physicians or to amend the duties and responsibilities of the physician assistant.

(4) Whenever a physician assistant is practicing in a manner inconsistent with the practice agreement, the commission may take disciplinary action under chapter 18.130 RCW.

(5) Whenever a physician is subject to disciplinary action under chapter 18.130 RCW related to the practice of a physician assistant, the case must be referred to the appropriate disciplining authority.

(6) A physician assistant or physician may participate in more than one practice agreement if he or she is reasonably able to fulfill the duties and responsibilities in each agreement.

(7) A physician may supervise no more than ten physician assistants. A physician may petition the commission for a waiver of this limit. The commission shall automatically grant a waiver to any physician who possesses, on the effective date of this section, a valid waiver to supervise more than ten physician assistants. A physician granted a waiver under this subsection may not

supervise more physician assistants than the physician is able to adequately supervise.

(8) A physician assistant must file with the commission in a form acceptable to the commission:

(a) Each practice agreement into which the physician assistant enters under this section;

(b) Any amendments to the practice agreement; and

(c) Notice if the practice agreement is terminated.

Sec. 7. RCW 18.71A.050 and 1994 sp.s. c 9 s 323 are each amended to read as follows:

No physician who (~~(supervises)~~) enters into a practice agreement with a licensed physician assistant in accordance with and within the terms of any permission granted by the commission is considered as aiding and abetting an unlicensed person to practice medicine. The supervising physician and physician assistant shall each retain professional and personal responsibility for any act which constitutes the practice of medicine as defined in RCW 18.71.011 or the practice of osteopathic medicine and surgery as defined in RCW 18.57.001 when performed by the physician assistant.

Sec. 8. RCW 18.71A.090 and 2007 c 264 s 3 are each amended to read as follows:

(1) A physician assistant may sign and attest to any certificates, cards, forms, or other required documentation that the physician assistant's supervising physician or physician group may sign, provided that it is within the physician assistant's scope of practice and is consistent with the terms of the physician assistant's practice (~~(arrangement plan)~~) agreement as required by this chapter.

(2) Notwithstanding any federal law, rule, or medical staff bylaw provision to the contrary, a physician is not required to countersign orders written in a patient's clinical record or an official form by a physician assistant with whom the physician has a practice agreement.

NEW SECTION. Sec. 9. A new section is added to chapter 18.71A RCW to read as follows:

(1) The commission shall conduct an education and outreach campaign to make license holders, health carriers, and the public aware of the provisions of this act.

(2) This section expires August 1, 2023.

NEW SECTION. Sec. 10. A new section is added to chapter 18.71A RCW to read as follows:

(1) On or after the effective date of this section, no new licenses may be issued under chapter 18.57A RCW. The commission shall license physician assistants licensed under chapter 18.57A RCW prior to the effective date of this section as physician assistants under this chapter when they renew their licenses.

(2) The board of osteopathic medicine and surgery remains the disciplining authority under chapter 18.130 RCW for conduct occurring while a physician assistant is licensed under chapter 18.57A RCW.

NEW SECTION. Sec. 11. A new section is added to chapter 18.71A RCW to read as follows:

The commission and the board of osteopathic medicine and surgery shall adopt any rules necessary to implement this act.

Sec. 12. RCW 7.68.030 and 2017 c 235 s 2 are each amended to read as follows:

(1) It shall be the duty of the director to establish and administer a program of benefits to innocent victims of criminal acts within the terms and limitations of this chapter. The director may apply for and, subject to appropriation, expend federal funds under Public Law 98-473 and any other federal program providing financial assistance to state crime victim compensation programs. The federal funds shall be deposited in the state general fund and may be expended only for purposes authorized by applicable federal law.

(2) The director shall:

(a) Establish and adopt rules governing the administration of this chapter in accordance with chapter 34.05 RCW;

(b) Regulate the proof of accident and extent thereof, the proof of death, and the proof of relationship and the extent of dependency;

(c) Supervise the medical, surgical, and hospital treatment to the intent that it may be in all cases efficient and up to the recognized standard of modern surgery;

(d) Issue proper receipts for moneys received and certificates for benefits accrued or accruing;

(e) Designate a medical director who is licensed under chapter 18.57 or 18.71 RCW;

(f) Supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of ~~((chapters 18.57A and))~~ chapter 18.71A RCW, acting under a supervising physician, including chiropractic care, and including care provided by licensed advanced registered nurse practitioners, to victims at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, electronic communications, rules, regulations, and practices for the furnishing of such care and treatment. The medical coverage decisions of the department do not constitute a "rule" as used in RCW 34.05.010(16), nor are such decisions subject to the rule-making provisions of chapter 34.05 RCW except that criteria for establishing medical coverage decisions shall be adopted by rule. The department may recommend to a victim particular health care services and providers where specialized treatment is indicated or where cost-effective payment levels or rates are obtained by the department, and the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured victims;

(g) In consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed advanced registered nurse practitioner, and physician assistants as defined in ~~((chapters 18.57A and))~~ chapter 18.71A RCW, acting under a supervising physician or other agency or person rendering services to victims. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing

and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to victims, whether aliens or other victims, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule constitute a "rule" as used in RCW 34.05.010(16). Payments for providers' services under the fee schedule established pursuant to this subsection (2) may not be less than payments provided for comparable services under the workers' compensation program under Title 51 RCW, provided:

(i) If the department, using caseload estimates, projects a deficit in funding for the program by July 15th for the following fiscal year, the director shall notify the governor and the appropriate committees of the legislature and request funding sufficient to continue payments to not less than payments provided for comparable services under the workers' compensation program. If sufficient funding is not provided to continue payments to not less than payments provided for comparable services under the workers' compensation program, the director shall reduce the payments under the fee schedule for the following fiscal year based on caseload estimates and available funding, except payments may not be reduced to less than seventy percent of payments for comparable services under the workers' compensation program;

(ii) If an unforeseeable catastrophic event results in insufficient funding to continue payments to not less than payments provided for comparable services under the workers' compensation program, the director shall reduce the payments under the fee schedule to not less than seventy percent of payments provided for comparable services under the workers' compensation program, provided that the reduction may not be more than necessary to fund benefits under the program; and

(iii) Once sufficient funding is provided or otherwise available, the director shall increase the payments under the fee schedule to not less than payments provided for comparable services under the workers' compensation program;

(h) Make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured victims, shall approve and pay those which conform to the adopted rules, regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it.

(3) The director and his or her authorized assistants:

(a) Have power to issue subpoenas to enforce the attendance and testimony of witnesses and the production and examination of books, papers, photographs, tapes, and records before the department in connection with any claim made to the department or any billing submitted to the department. The superior court has the power to enforce any such subpoena by proper proceedings;

(b)(i) May apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county

where the subpoenaed records or documents are located, or in Thurston county. The application must (A) state that an order is sought pursuant to this subsection; (B) adequately specify the records, documents, or testimony; and (C) declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(ii) Where the application under this subsection (3)(b) is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(iii) The director and his or her authorized assistants may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(4) In all hearings, actions, or proceedings before the department, any physician or licensed advanced registered nurse practitioner having theretofore examined or treated the claimant may be required to testify fully regarding such examination or treatment, and shall not be exempt from so testifying by reason of the relation of the physician or licensed advanced registered nurse practitioner to the patient.

Sec. 13. RCW 18.06.140 and 2019 c 308 s 9 are each amended to read as follows:

(1) When a person licensed under this chapter sees patients with potentially serious disorders such as cardiac conditions, acute abdominal symptoms, and such other conditions, the practitioner shall immediately request a consultation or recent written diagnosis from a primary health care provider licensed under chapter 18.71, 18.57, (~~18.57A,~~) 18.36A, or 18.71A RCW or RCW 18.79.050. In the event that the patient with the disorder refuses to authorize such consultation or provide a recent diagnosis from such primary health care provider, acupuncture or Eastern medicine treatments may only be continued after the patient signs a written waiver acknowledging the risks associated with the failure to pursue treatment from a primary health care provider. The waiver must also include: (a) An explanation of an acupuncturist's or acupuncture and Eastern medicine practitioner's scope of practice, including the services and techniques acupuncturists or acupuncture and Eastern medicine practitioners are authorized to provide and (b) a statement that the services and techniques that an acupuncturist or acupuncture and Eastern medicine practitioner is authorized to provide will not resolve the patient's underlying potentially serious disorder. The requirements of the waiver shall be established by the secretary in rule.

(2) In an emergency, a person licensed under this chapter shall: (a) Initiate the emergency medical system by calling 911; (b) request an ambulance; and (c) provide patient support until emergency response arrives.

(3) A person violating this section is guilty of a misdemeanor.

Sec. 14. RCW 18.57.003 and 2017 c 101 s 1 are each amended to read as follows:

There is hereby created an agency of the state of Washington, consisting of eleven individuals appointed by the governor to be known as the Washington state board of osteopathic medicine and surgery.

On expiration of the term of any member, the governor shall appoint for a period of five years a qualified individual to take the place of such member. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been appointed and shall have qualified. Initial appointments shall be made and vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor.

Each member of the board shall be a citizen of the United States and must be an actual resident of this state. Two members must be consumers who have neither a financial nor a fiduciary relationship to a health care delivery system, ~~((one member must have been in active practice as a licensed osteopathic physician assistant in this state for at least five years immediately preceding appointment,))~~ and every other member must have been in active practice as a licensed osteopathic physician and surgeon in this state for at least five years immediately preceding appointment.

The board shall elect a chairperson, a secretary, and a vice chairperson from its members. Meetings of the board shall be held at least four times a year and at such place as the board shall determine and at such other times and places as the board deems necessary.

An affirmative vote of a simple majority of the members present at a meeting or hearing shall be required for the board to take any official action. The board may not take any action without a quorum of the board members present. A simple majority of the board members currently serving constitutes a quorum of the board.

Each member of the board shall be compensated in accordance with RCW 43.03.265 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. The board is a class five group for purposes of chapter 43.03 RCW.

Any member of the board may be removed by the governor for neglect of duty, misconduct, malfeasance or misfeasance in office, or upon written request of two-thirds of the physicians licensed under this chapter and in active practice in this state.

Sec. 15. RCW 18.79.040 and 2012 c 13 s 1 are each amended to read as follows:

(1) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and skill based on the principles of the biological, physiological, behavioral, and sociological sciences in either:

(a) The observation, assessment, diagnosis, care or counsel, and health teaching of individuals with illnesses, injuries, or disabilities, or in the maintenance of health or prevention of illness of others;

(b) The performance of such additional acts requiring education and training and that are recognized by the medical and nursing professions as proper and recognized by the commission to be performed by registered nurses licensed under this chapter and that are authorized by the commission through its rules;

(c) The administration, supervision, delegation, and evaluation of nursing practice. However, nothing in this subsection affects the authority of a hospital,

hospital district, in-home service agency, community-based care setting, medical clinic, or office, concerning its administration and supervision;

(d) The teaching of nursing;

(e) The executing of medical regimen as prescribed by a licensed physician and surgeon, dentist, osteopathic physician and surgeon, podiatric physician and surgeon, physician assistant, (~~(osteopathic physician assistant,)~~) or advanced registered nurse practitioner, or as directed by a licensed midwife within his or her scope of practice.

(2) Nothing in this section prohibits a person from practicing a profession for which a license has been issued under the laws of this state or specifically authorized by any other law of the state of Washington.

(3) This section does not prohibit (a) the nursing care of the sick, without compensation, by an unlicensed person who does not hold himself or herself out to be a registered nurse, (b) the practice of licensed practical nursing by a licensed practical nurse, or (c) the practice of a nursing assistant, providing delegated nursing tasks under chapter 18.88A RCW.

Sec. 16. RCW 18.79.060 and 2012 c 13 s 2 are each amended to read as follows:

"Licensed practical nursing practice" means the performance of services requiring the knowledge, skill, and judgment necessary for carrying out selected aspects of the designated nursing regimen under the direction and supervision of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, physician assistant, (~~(osteopathic physician assistant,)~~) podiatric physician and surgeon, advanced registered nurse practitioner, registered nurse, or midwife.

Nothing in this section prohibits a person from practicing a profession for which a license has been issued under the laws of this state or specifically authorized by any other law of the state of Washington.

This section does not prohibit the nursing care of the sick, without compensation, by an unlicensed person who does not hold himself or herself out to be a licensed practical nurse.

Sec. 17. RCW 18.79.240 and 2019 c 270 s 4 are each amended to read as follows:

(1) In the context of the definition of registered nursing practice and advanced registered nursing practice, this chapter shall not be construed as:

(a) Prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, so long as they do not practice registered nursing within the meaning of this chapter;

(b) Preventing a person from the domestic administration of family remedies or the furnishing of nursing assistance in case of emergency;

(c) Prohibiting the practice of nursing by students enrolled in approved schools as may be incidental to their course of study or prohibiting the students from working as nursing technicians;

(d) Prohibiting auxiliary services provided by persons carrying out duties necessary for the support of nursing services, including those duties that involve minor nursing services for persons performed in hospitals, nursing homes, or elsewhere under the direction of licensed physicians or the supervision of licensed registered nurses;

(e) Prohibiting the practice of nursing in this state by a legally qualified nurse of another state or territory whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement, not to exceed six months in length, if the person does not represent or hold himself or herself out as a registered nurse licensed to practice in this state;

(f) Prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of a church by adherents of the church so long as they do not engage in the practice of nursing as defined in this chapter;

(g) Prohibiting the practice of a legally qualified nurse of another state who is employed by the United States government or a bureau, division, or agency thereof, while in the discharge of his or her official duties;

(h) Permitting the measurement of the powers or range of human vision, or the determination of the accommodation and refractive state of the human eye or the scope of its functions in general, or the fitting or adaptation of lenses for the aid thereof;

(i) Permitting the prescribing or directing the use of, or using, an optical device in connection with ocular exercises, visual training, vision training, or orthoptics;

(j) Permitting the prescribing of contact lenses for, or the fitting and adaptation of contact lenses to, the human eye;

(k) Prohibiting the performance of routine visual screening;

(l) Permitting the practice of dentistry or dental hygiene as defined in chapters 18.32 and 18.29 RCW, respectively;

(m) Permitting the practice of chiropractic as defined in chapter 18.25 RCW including the adjustment or manipulation of the articulation of the spine;

(n) Permitting the practice of podiatric medicine and surgery as defined in chapter 18.22 RCW;

(o) Permitting the performance of major surgery, except such minor surgery as the commission may have specifically authorized by rule adopted in accordance with chapter 34.05 RCW;

(p) Permitting the prescribing of controlled substances as defined in Schedule I of the Uniform Controlled Substances Act, chapter 69.50 RCW;

(q) Prohibiting the determination and pronouncement of death;

(r) Prohibiting advanced registered nurse practitioners, approved by the commission as certified registered nurse anesthetists from selecting, ordering, or administering controlled substances as defined in Schedules II through IV of the Uniform Controlled Substances Act, chapter 69.50 RCW, consistent with their commission-recognized scope of practice; subject to facility-specific protocols, and subject to a request for certified registered nurse anesthetist anesthesia services issued by a physician licensed under chapter 18.71 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, a dentist licensed under chapter 18.32 RCW, or a podiatric physician and surgeon licensed under chapter 18.22 RCW; the authority to select, order, or administer Schedule II through IV controlled substances being limited to those drugs that are to be directly administered to patients who require anesthesia for diagnostic, operative, obstetrical, or therapeutic procedures in a hospital, clinic, ambulatory surgical facility, or the office of a practitioner licensed under chapter 18.71,

18.22, 18.36, 18.36A, 18.57, (~~(18.57A,)~~) or 18.32 RCW; "select" meaning the decision-making process of choosing a drug, dosage, route, and time of administration; and "order" meaning the process of directing licensed individuals pursuant to their statutory authority to directly administer a drug or to dispense, deliver, or distribute a drug for the purpose of direct administration to a patient, under instructions of the certified registered nurse anesthetist. "Protocol" means a statement regarding practice and documentation concerning such items as categories of patients, categories of medications, or categories of procedures rather than detailed case-specific formulas for the practice of nurse anesthesia;

(s) Prohibiting advanced registered nurse practitioners from ordering or prescribing controlled substances as defined in Schedules II through IV of the Uniform Controlled Substances Act, chapter 69.50 RCW, if and to the extent that doing so is permitted by their scope of practice;

(t) Prohibiting the practice of registered nursing or advanced registered nursing by a student enrolled in an approved school if:

(i) The student performs services without compensation or expectation of compensation as part of a volunteer activity;

(ii) The student is under the direct supervision of a registered nurse or advanced registered nurse practitioner licensed under this chapter, a pharmacist licensed under chapter 18.64 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, or a physician licensed under chapter 18.71 RCW;

(iii) The services the student performs are within the scope of practice of: (A) The nursing profession for which the student is receiving training; and (B) the person supervising the student;

(iv) The school in which the student is enrolled verifies the student has demonstrated competency through his or her education and training to perform the services; and

(v) The student provides proof of current malpractice insurance to the volunteer activity organizer prior to performing any services.

(2) In the context of the definition of licensed practical nursing practice, this chapter shall not be construed as:

(a) Prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, so long as they do not practice practical nursing within the meaning of this chapter;

(b) Preventing a person from the domestic administration of family remedies or the furnishing of nursing assistance in case of emergency;

(c) Prohibiting the practice of practical nursing by students enrolled in approved schools as may be incidental to their course of study or prohibiting the students from working as nursing assistants;

(d) Prohibiting auxiliary services provided by persons carrying out duties necessary for the support of nursing services, including those duties that involve minor nursing services for persons performed in hospitals, nursing homes, or elsewhere under the direction of licensed physicians or the supervision of licensed registered nurses;

(e) Prohibiting or preventing the practice of nursing in this state by a legally qualified nurse of another state or territory whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during

the period of one such engagement, not to exceed six months in length, if the person does not represent or hold himself or herself out as a licensed practical nurse licensed to practice in this state;

(f) Prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of a church by adherents of the church so long as they do not engage in licensed practical nurse practice as defined in this chapter;

(g) Prohibiting the practice of a legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof, while in the discharge of his or her official duties.

Sec. 18. RCW 18.79.260 and 2012 c 164 s 407, 2012 c 13 s 3, and 2012 c 10 s 37 are each reenacted and amended to read as follows:

(1) A registered nurse under his or her license may perform for compensation nursing care, as that term is usually understood, to individuals with illnesses, injuries, or disabilities.

(2) A registered nurse may, at or under the general direction of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, naturopathic physician, optometrist, podiatric physician and surgeon, physician assistant, ~~((osteopathic physician assistant,))~~ advanced registered nurse practitioner, or midwife acting within the scope of his or her license, administer medications, treatments, tests, and inoculations, whether or not the severing or penetrating of tissues is involved and whether or not a degree of independent judgment and skill is required. Such direction must be for acts which are within the scope of registered nursing practice.

(3) A registered nurse may delegate tasks of nursing care to other individuals where the registered nurse determines that it is in the best interest of the patient.

(a) The delegating nurse shall:

(i) Determine the competency of the individual to perform the tasks;

(ii) Evaluate the appropriateness of the delegation;

(iii) Supervise the actions of the person performing the delegated task; and

(iv) Delegate only those tasks that are within the registered nurse's scope of practice.

(b) A registered nurse, working for a home health or hospice agency regulated under chapter 70.127 RCW, may delegate the application, instillation, or insertion of medications to a registered or certified nursing assistant under a plan of care.

(c) Except as authorized in (b) or (e) of this subsection, a registered nurse may not delegate the administration of medications. Except as authorized in (e) of this subsection, a registered nurse may not delegate acts requiring substantial skill, and may not delegate piercing or severing of tissues. Acts that require nursing judgment shall not be delegated.

(d) No person may coerce a nurse into compromising patient safety by requiring the nurse to delegate if the nurse determines that it is inappropriate to do so. Nurses shall not be subject to any employer reprisal or disciplinary action by the nursing care quality assurance commission for refusing to delegate tasks or refusing to provide the required training for delegation if the nurse determines delegation may compromise patient safety.

(e) For delegation in community-based care settings or in-home care settings, a registered nurse may delegate nursing care tasks only to registered or certified nursing assistants or home care aides certified under chapter 18.88B RCW. Simple care tasks such as blood pressure monitoring, personal care service, diabetic insulin device set up, verbal verification of insulin dosage for sight-impaired individuals, or other tasks as defined by the nursing care quality assurance commission are exempted from this requirement.

(i) "Community-based care settings" includes: Community residential programs for people with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(ii) "In-home care settings" include an individual's place of temporary or permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings as defined in (e)(i) of this subsection.

(iii) Delegation of nursing care tasks in community-based care settings and in-home care settings is only allowed for individuals who have a stable and predictable condition. "Stable and predictable condition" means a situation in which the individual's clinical and behavioral status is known and does not require the frequent presence and evaluation of a registered nurse.

(iv) The determination of the appropriateness of delegation of a nursing task is at the discretion of the registered nurse. Other than delegation of the administration of insulin by injection for the purpose of caring for individuals with diabetes, the administration of medications by injection, sterile procedures, and central line maintenance may never be delegated.

(v) When delegating insulin injections under this section, the registered nurse delegator must instruct the individual regarding proper injection procedures and the use of insulin, demonstrate proper injection procedures, and must supervise and evaluate the individual performing the delegated task weekly during the first four weeks of delegation of insulin injections. If the registered nurse delegator determines that the individual is competent to perform the injection properly and safely, supervision and evaluation shall occur at least every ninety days thereafter.

(vi)(A) The registered nurse shall verify that the nursing assistant or home care aide, as the case may be, has completed the required core nurse delegation training required in chapter 18.88A or 18.88B RCW prior to authorizing delegation.

(B) Before commencing any specific nursing tasks authorized to be delegated in this section, a home care aide must be certified pursuant to chapter 18.88B RCW and must comply with RCW 18.88B.070.

(vii) The nurse is accountable for his or her own individual actions in the delegation process. Nurses acting within the protocols of their delegation authority are immune from liability for any action performed in the course of their delegation duties.

(viii) Nursing task delegation protocols are not intended to regulate the settings in which delegation may occur, but are intended to ensure that nursing care services have a consistent standard of practice upon which the public and

the profession may rely, and to safeguard the authority of the nurse to make independent professional decisions regarding the delegation of a task.

(f) The nursing care quality assurance commission may adopt rules to implement this section.

(4) Only a person licensed as a registered nurse may instruct nurses in technical subjects pertaining to nursing.

(5) Only a person licensed as a registered nurse may hold herself or himself out to the public or designate herself or himself as a registered nurse.

Sec. 19. RCW 18.79.270 and 2012 c 13 s 4 are each amended to read as follows:

A licensed practical nurse under his or her license may perform nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof may, under the direction of a licensed physician and surgeon, osteopathic physician and surgeon, dentist, naturopathic physician, podiatric physician and surgeon, physician assistant, (~~osteopathic physician assistant,~~) advanced registered nurse practitioner, or midwife acting under the scope of his or her license, or at the direction and under the supervision of a registered nurse, administer drugs, medications, treatments, tests, injections, and inoculations, whether or not the piercing of tissues is involved and whether or not a degree of independent judgment and skill is required, when selected to do so by one of the licensed practitioners designated in this section, or by a registered nurse who need not be physically present; if the order given is reduced to writing within a reasonable time and made a part of the patient's record. Such direction must be for acts within the scope of licensed practical nurse practice.

Sec. 20. RCW 18.89.020 and 2011 c 235 s 1 are each reenacted and amended to read as follows:

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

(1) "Department" means the department of health.

(2) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician or surgeon licensed under chapter 18.57 RCW;

or

(c) Acting within the scope of their respective licensure, a podiatric physician and surgeon licensed under chapter 18.22 RCW, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A RCW, or a physician assistant licensed under chapter 18.71A RCW(~~, or an osteopathic physician assistant licensed under chapter 18.57A RCW~~).

(3) "Respiratory care practitioner" means an individual licensed under this chapter.

(4) "Secretary" means the secretary of health or the secretary's designee.

Sec. 21. RCW 18.100.050 and 2001 c 251 s 29 are each amended to read as follows:

(1) An individual or group of individuals duly licensed or otherwise legally authorized to render the same professional services within this state may organize and become a shareholder or shareholders of a professional corporation for pecuniary profit under the provisions of Title 23B RCW for the purpose of

rendering professional service. One or more of the legally authorized individuals shall be the incorporators of the professional corporation.

(2) Notwithstanding any other provision of this chapter, registered architects and registered engineers may own stock in and render their individual professional services through one professional service corporation.

(3) Licensed health care professionals, providing services to enrolled participants either directly or through arrangements with a health maintenance organization registered under chapter 48.46 RCW or federally qualified health maintenance organization, may own stock in and render their individual professional services through one professional service corporation.

(4) Professionals may organize a nonprofit nonstock corporation under this chapter and chapter 24.03 RCW to provide professional services, and the provisions of this chapter relating to stock and referring to Title 23B RCW shall not apply to any such corporation.

(5)(a) Notwithstanding any other provision of this chapter, health care professionals who are licensed or certified pursuant to chapters 18.06, 18.225, 18.22, 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, ~~((18.57A,))~~ 18.64, 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may own stock in and render their individual professional services through one professional service corporation and are to be considered, for the purpose of forming a professional service corporation, as rendering the "same specific professional services" or "same professional services" or similar terms.

(b) Notwithstanding any other provision of this chapter, health care professionals who are regulated under chapters 18.59 and 18.74 RCW may own stock in and render their individual professional services through one professional service corporation formed for the sole purpose of providing professional services within their respective scope of practice.

(c) Formation of a professional service corporation under this subsection does not restrict the application of the uniform disciplinary act under chapter 18.130 RCW, or applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession without being appropriately credentialed and persons practicing beyond the scope of their credential.

Sec. 22. RCW 18.120.020 and 2019 c 308 s 17 are each amended to read as follows:

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

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the

practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dental anesthesia assistants under chapter 18.350 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ophthalmologists under chapter 18.55 RCW; osteopathic medicine and surgery under ~~(chapters)~~ chapter 18.57 ~~((and 18.57A))~~ RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; massage therapists under chapter 18.108 RCW; acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; nursing assistants registered or certified under chapter 18.88A RCW; reflexologists certified under chapter 18.108 RCW; medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and licensed behavior analysts, licensed assistant behavior analysts, and certified behavior technicians under chapter 18.380 RCW.

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(9) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include:

(a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

Sec. 23. RCW 18.130.040 and 2019 c 444 s 11, 2019 c 308 s 18, and 2019 c 55 s 7 are each reenacted and amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—-independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under ~~((chapters))~~ chapter 18.57 ~~((and 18.57A))~~ RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

Sec. 24. RCW 18.130.410 and 2017 c 336 s 9 are each amended to read as follows:

It is not professional misconduct for a physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; (~~osteopathic physician assistant licensed under chapter 18.57A RCW;~~) advanced emergency medical technician or paramedic certified under chapter 18.71 RCW; or medical assistant-certified, medical assistant-phlebotomist, or forensic phlebotomist certified under chapter 18.360 RCW, or person holding another credential under Title 18 RCW whose scope of practice includes performing venous blood draws, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider, to collect a blood sample without a person's consent when the physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; (~~osteopathic physician assistant licensed under chapter 18.57A RCW;~~) advanced emergency medical technician or paramedic certified under chapter 18.71 RCW; or medical assistant-certified, medical assistant-phlebotomist, or forensic phlebotomist certified under chapter 18.360 RCW, or person holding another credential under Title 18 RCW whose scope of practice includes performing venous blood draws, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider withdrawing blood was directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant or exigent circumstances: PROVIDED, That nothing in this section shall relieve a physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; (~~osteopathic physician assistant licensed under chapter 18.57A RCW;~~) advanced emergency medical technician or paramedic certified under chapter 18.71 RCW; or medical assistant-certified, medical assistant-phlebotomist, or forensic phlebotomist certified under chapter 18.360 RCW, or person holding another credential under Title 18 RCW whose scope of practice includes performing venous blood draws, or hospital, or duly licensed clinical laboratory

employing or utilizing services of such licensed or certified health care provider withdrawing blood from professional discipline arising from the use of improper procedures or from failing to exercise the required standard of care.

Sec. 25. RCW 18.250.010 and 2019 c 308 s 19 are each amended to read as follows:

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

(1) "Athlete" means a person who participates in exercise, recreation, sport, or games requiring physical strength, range-of-motion, flexibility, body awareness and control, speed, stamina, or agility, and the exercise, recreation, sports, or games are of a type conducted in association with an educational institution or professional, amateur, or recreational sports club or organization.

(2) "Athletic injury" means an injury or condition sustained by an athlete that affects the person's participation or performance in exercise, recreation, sport, or games and the injury or condition is within the professional preparation and education of an athletic trainer.

(3) "Athletic trainer" means a person who is licensed under this chapter. An athletic trainer can practice athletic training through the consultation, referral, or guidelines of a licensed health care provider working within their scope of practice.

(4)(a) "Athletic training" means the application of the following principles and methods as provided by a licensed athletic trainer:

(i) Risk management and prevention of athletic injuries through preactivity screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks;

(ii) Recognition, evaluation, and assessment of athletic injuries by obtaining a history of the athletic injury, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury;

(iii) Immediate care of athletic injuries, including emergency medical situations through the application of first-aid and emergency procedures and techniques for nonlife-threatening or life-threatening athletic injuries;

(iv) Treatment, rehabilitation, and reconditioning of athletic injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, in accordance with guidelines established with a licensed health care provider as provided in RCW 18.250.070;

(v) Treatment, rehabilitation, and reconditioning of work-related injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, under the direct supervision of and in accordance with a plan of care for an individual worker established by a provider authorized to provide physical medicine and rehabilitation services for injured workers; and

(vi) Referral of an athlete to an appropriately licensed health care provider if the athletic injury requires further definitive care or the injury or condition is

outside an athletic trainer's scope of practice, in accordance with RCW 18.250.070.

(b) "Athletic training" does not include:

(i) The use of spinal adjustment or manipulative mobilization of the spine and its immediate articulations;

(ii) Orthotic or prosthetic services with the exception of evaluation, measurement, fitting, and adjustment of temporary, prefabricated or direct-formed orthosis as defined in chapter 18.200 RCW;

(iii) The practice of occupational therapy as defined in chapter 18.59 RCW;

(iv) The practice of acupuncture and Eastern medicine as defined in chapter 18.06 RCW;

(v) Any medical diagnosis; and

(vi) Prescribing legend drugs or controlled substances, or surgery.

(5) "Committee" means the athletic training advisory committee.

(6) "Department" means the department of health.

(7) "Licensed health care provider" means a physician, physician assistant, osteopathic physician, ~~((osteopathic physician assistant,))~~ advanced registered nurse practitioner, naturopath, physical therapist, chiropractor, dentist, massage therapist, acupuncturist, occupational therapist, or podiatric physician and surgeon.

(8) "Secretary" means the secretary of health or the secretary's designee.

Sec. 26. RCW 18.360.010 and 2017 c 336 s 14 are each reenacted and amended to read as follows:

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

(1) "Administer" means the retrieval of medication, and its application to a patient, as authorized in RCW 18.360.050.

(2) "Delegation" means direct authorization granted by a licensed health care practitioner to a medical assistant to perform the functions authorized in this chapter which fall within the scope of practice of the health care provider and the training and experience of the medical assistant.

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

(4) "Forensic phlebotomist" means a police officer, law enforcement officer, or employee of a correctional facility or detention facility, who is certified under this chapter and meets any additional training and proficiency standards of his or her employer to collect a venous blood sample for forensic testing pursuant to a search warrant, a waiver of the warrant requirement, or exigent circumstances.

(5) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician and surgeon licensed under chapter 18.57 RCW; or

(c) Acting within the scope of their respective licensure, a podiatric physician and surgeon licensed under chapter 18.22 RCW, a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A RCW, ~~((an osteopathic physician assistant licensed under chapter 18.57A RCW,))~~ or an optometrist licensed under chapter 18.53 RCW.

(6) "Medical assistant-certified" means a person certified under RCW 18.360.040 who assists a health care practitioner with patient care, executes

administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

(7) "Medical assistant-hemodialysis technician" means a person certified under RCW 18.360.040 who performs hemodialysis and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

(8) "Medical assistant-phlebotomist" means a person certified under RCW 18.360.040 who performs capillary, venous, and arterial invasive procedures for blood withdrawal and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

(9) "Medical assistant-registered" means a person registered under RCW 18.360.040 who, pursuant to an endorsement by a health care practitioner, clinic, or group practice, assists a health care practitioner with patient care, executes administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

(10) "Secretary" means the secretary of the department of health.

(11) "Supervision" means supervision of procedures permitted pursuant to this chapter by a health care practitioner who is physically present and is immediately available in the facility. The health care practitioner does not need to be present during procedures to withdraw blood, but must be immediately available.

Sec. 27. RCW 28A.210.090 and 2019 c 362 s 2 are each amended to read as follows:

(1) Any child shall be exempt in whole or in part from the immunization measures required by RCW 28A.210.060 through 28A.210.170 upon the presentation of any one or more of the certifications required by this section, on a form prescribed by the department of health:

(a) A written certification signed by a health care practitioner that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child: PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

(b) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; or

(c) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child. A philosophical or personal objection may not be used to exempt a child from the measles, mumps, and rubella vaccine.

(2)(a) The form presented on or after July 22, 2011, must include a statement to be signed by a health care practitioner stating that he or she provided the signator with information about the benefits and risks of immunization to the child. The form may be signed by a health care practitioner at any time prior to the enrollment of the child in a school or licensed day care. Photocopies of the signed form or a letter from the health care practitioner referencing the child's name shall be accepted in lieu of the original form.

(b) A health care practitioner who, in good faith, signs the statement provided for in (a) of this subsection is immune from civil liability for providing the signature.

(c) Any parent or legal guardian of the child or any adult in loco parentis to the child who exempts the child due to religious beliefs pursuant to subsection (1)(b) of this section is not required to have the form provided for in (a) of this subsection signed by a health care practitioner if the parent or legal guardian demonstrates membership in a religious body or a church in which the religious beliefs or teachings of the church preclude a health care practitioner from providing medical treatment to the child.

(3) For purposes of this section, "health care practitioner" means a physician licensed under chapter 18.71 or 18.57 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A (~~or 18.57A~~) RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

Sec. 28. RCW 43.70.110 and 2019 c 308 s 21 and 2019 c 140 s 1 are each reenacted and amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. Municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, (~~osteopathic physicians' assistants licensed under chapter 18.57A RCW,~~) naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, advanced social workers licensed under chapter 18.225 RCW, independent clinical social workers and independent clinical social worker associates licensed under chapter 18.225 RCW, midwives licensed under chapter 18.50 RCW, marriage and family therapists and marriage and family therapist associates licensed under chapter 18.225 RCW, occupational therapists and

occupational therapy assistants licensed under chapter 18.59 RCW, dietitians and nutritionists certified under chapter 18.138 RCW, speech-language pathologists licensed under chapter 18.35 RCW, acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW, and veterinarians and veterinary technicians licensed under chapter 18.92 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

Sec. 29. RCW 43.70.220 and 1994 sp.s. c 9 s 727 are each amended to read as follows:

The powers and duties of the department of licensing and the director of licensing under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 18.06, 18.19, 18.22, 18.25, 18.29, 18.32, 18.34, 18.35, 18.36A, 18.50, 18.52, 18.52C, 18.53, 18.54, 18.55, 18.57, ~~((18.57A,))~~ 18.59, 18.71, 18.71A, 18.74, 18.83, 18.84, 18.79, 18.89, 18.92, 18.108, ~~((18.135,))~~ and 18.138 RCW. More specifically, the health professions regulatory programs and services presently administered by the department of licensing are hereby transferred to the department of health.

Sec. 30. RCW 43.70.442 and 2019 c 444 s 13 and 2019 c 358 s 5 are each reenacted and amended to read as follows:

(1)(a) Each of the following professionals certified or licensed under Title 18 RCW shall, at least once every six years, complete training in suicide assessment, treatment, and management that is approved, in rule, by the relevant disciplining authority:

- (i) An adviser or counselor certified under chapter 18.19 RCW;
- (ii) A substance use disorder professional licensed under chapter 18.205 RCW;
- (iii) A marriage and family therapist licensed under chapter 18.225 RCW;
- (iv) A mental health counselor licensed under chapter 18.225 RCW;
- (v) An occupational therapy practitioner licensed under chapter 18.59 RCW;
- (vi) A psychologist licensed under chapter 18.83 RCW;
- (vii) An advanced social worker or independent clinical social worker licensed under chapter 18.225 RCW; and
- (viii) A social worker associate—advanced or social worker associate— independent clinical licensed under chapter 18.225 RCW.

(b) The requirements in (a) of this subsection apply to a person holding a retired active license for one of the professions in (a) of this subsection.

(c) The training required by this subsection must be at least six hours in length, unless a disciplining authority has determined, under subsection (10)(b) of this section, that training that includes only screening and referral elements is appropriate for the profession in question, in which case the training must be at least three hours in length.

(d) Beginning July 1, 2017, the training required by this subsection must be on the model list developed under subsection (6) of this section. Nothing in this subsection (1)(d) affects the validity of training completed prior to July 1, 2017.

(2)(a) Except as provided in (b) of this subsection, a professional listed in subsection (1)(a) of this section must complete the first training required by this section by the end of the first full continuing education reporting period after January 1, 2014, or during the first full continuing education reporting period after initial licensure or certification, whichever occurs later.

(b) A professional listed in subsection (1)(a) of this section applying for initial licensure may delay completion of the first training required by this section for six years after initial licensure if he or she can demonstrate successful completion of the training required in subsection (1) of this section no more than six years prior to the application for initial licensure.

(3) The hours spent completing training in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education or continuing competency requirements for each profession.

(4)(a) A disciplining authority may, by rule, specify minimum training and experience that is sufficient to exempt an individual professional from the training requirements in subsections (1) and (5) of this section. Nothing in this subsection (4)(a) allows a disciplining authority to provide blanket exemptions to broad categories or specialties within a profession.

(b) A disciplining authority may exempt a professional from the training requirements of subsections (1) and (5) of this section if the professional has only brief or limited patient contact.

(5)(a) Each of the following professionals credentialed under Title 18 RCW shall complete a one-time training in suicide assessment, treatment, and management that is approved by the relevant disciplining authority:

(i) A chiropractor licensed under chapter 18.25 RCW;

(ii) A naturopath licensed under chapter 18.36A RCW;

(iii) A licensed practical nurse, registered nurse, or advanced registered nurse practitioner, other than a certified registered nurse anesthetist, licensed under chapter 18.79 RCW;

(iv) An osteopathic physician and surgeon licensed under chapter 18.57 RCW, other than a holder of a postgraduate osteopathic medicine and surgery license issued under RCW 18.57.035;

~~(v) ((An osteopathic physician assistant licensed under chapter 18.57A RCW;~~

~~(vi))~~ (vi) A physical therapist or physical therapist assistant licensed under chapter 18.74 RCW;

~~((vii))~~ (vii) A physician licensed under chapter 18.71 RCW, other than a resident holding a limited license issued under RCW 18.71.095(3);

~~((viii))~~ (viii) A physician assistant licensed under chapter 18.71A RCW;

~~((ix))~~ (ix) A pharmacist licensed under chapter 18.64 RCW;

~~((x))~~ (x) A dentist licensed under chapter 18.32 RCW;

~~((xi))~~ (xi) A dental hygienist licensed under chapter 18.29 RCW;

~~((xii))~~ (xii) An athletic trainer licensed under chapter 18.250 RCW; and

~~((xiii))~~ (xiii) (xi) A person holding a retired active license for one of the professions listed in (a)(i) through ~~((xii))~~ (xi) of this subsection.

(b)(i) A professional listed in (a)(i) through ~~((viii))~~ (vii) of this subsection or a person holding a retired active license for one of the professions listed in (a)(i) through ~~((viii))~~ (vii) of this subsection must complete the one-time training by the end of the first full continuing education reporting period after January 1, 2016, or during the first full continuing education reporting period after initial licensure, whichever is later. Training completed between June 12, 2014, and January 1, 2016, that meets the requirements of this section, other than the timing requirements of this subsection (5)(b), must be accepted by the disciplining authority as meeting the one-time training requirement of this subsection (5).

(ii) A licensed pharmacist or a person holding a retired active pharmacist license must complete the one-time training by the end of the first full continuing education reporting period after January 1, 2017, or during the first full continuing education reporting period after initial licensure, whichever is later.

(iii) A licensed dentist, a licensed dental hygienist, or a person holding a retired active license as a dentist shall complete the one-time training by the end of the full continuing education reporting period after August 1, 2020, or during the first full continuing education reporting period after initial licensure, whichever is later. Training completed between July 23, 2017, and August 1, 2020, that meets the requirements of this section, other than the timing requirements of this subsection (5)(b)(iii), must be accepted by the disciplining authority as meeting the one-time training requirement of this subsection (5).

(c) The training required by this subsection must be at least six hours in length, unless a disciplining authority has determined, under subsection (10)(b) of this section, that training that includes only screening and referral elements is appropriate for the profession in question, in which case the training must be at least three hours in length.

(d) Beginning July 1, 2017, the training required by this subsection must be on the model list developed under subsection (6) of this section. Nothing in this subsection (5)(d) affects the validity of training completed prior to July 1, 2017.

(6)(a) The secretary and the disciplining authorities shall work collaboratively to develop a model list of training programs in suicide assessment, treatment, and management.

(b) The secretary and the disciplining authorities shall update the list at least once every two years.

(c) By June 30, 2016, the department shall adopt rules establishing minimum standards for the training programs included on the model list. The minimum standards must require that six-hour trainings include content specific to veterans and the assessment of issues related to imminent harm via lethal means or self-injurious behaviors and that three-hour trainings for pharmacists or dentists include content related to the assessment of issues related to imminent harm via lethal means. When adopting the rules required under this subsection (6)(c), the department shall:

(i) Consult with the affected disciplining authorities, public and private institutions of higher education, educators, experts in suicide assessment, treatment, and management, the Washington department of veterans affairs, and affected professional associations; and

(ii) Consider standards related to the best practices registry of the American foundation for suicide prevention and the suicide prevention resource center.

(d) Beginning January 1, 2017:

(i) The model list must include only trainings that meet the minimum standards established in the rules adopted under (c) of this subsection and any three-hour trainings that met the requirements of this section on or before July 24, 2015;

(ii) The model list must include six-hour trainings in suicide assessment, treatment, and management, and three-hour trainings that include only screening and referral elements; and

(iii) A person or entity providing the training required in this section may petition the department for inclusion on the model list. The department shall add the training to the list only if the department determines that the training meets the minimum standards established in the rules adopted under (c) of this subsection.

(7) The department shall provide the health profession training standards created in this section to the professional educator standards board as a model in meeting the requirements of RCW 28A.410.226 and provide technical assistance, as requested, in the review and evaluation of educator training programs. The educator training programs approved by the professional educator standards board may be included in the department's model list.

(8) Nothing in this section may be interpreted to expand or limit the scope of practice of any profession regulated under chapter 18.130 RCW.

(9) The secretary and the disciplining authorities affected by this section shall adopt any rules necessary to implement this section.

(10) For purposes of this section:

(a) "Disciplining authority" has the same meaning as in RCW 18.130.020.

(b) "Training in suicide assessment, treatment, and management" means empirically supported training approved by the appropriate disciplining authority that contains the following elements: Suicide assessment, including screening and referral, suicide treatment, and suicide management. However, the disciplining authority may approve training that includes only screening and referral elements if appropriate for the profession in question based on the profession's scope of practice. The board of occupational therapy may also approve training that includes only screening and referral elements if appropriate for occupational therapy practitioners based on practice setting.

(11) A state or local government employee is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

(12) An employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 71.24 RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

Sec. 31. RCW 43.70.470 and 2005 c 156 s 2 are each amended to read as follows:

The department may establish by rule the conditions of participation in the liability insurance program by retired health care providers at clinics utilizing retired health care providers for the purposes of this section and RCW 43.70.460. These conditions shall include, but not be limited to, the following:

(1) The participating health care provider associated with the clinic shall hold a valid license to practice as a physician under chapter 18.71 or 18.57 RCW, a naturopath under chapter 18.36A RCW, a physician assistant under chapter 18.71A (~~(or 18.57A)~~) RCW, an advanced registered nurse practitioner under chapter 18.79 RCW, a dentist under chapter 18.32 RCW, or other health professionals as may be deemed in short supply by the department. All health care providers must be in conformity with current requirements for licensure, including continuing education requirements;

(2) Health care shall be limited to noninvasive procedures and shall not include obstetrical care. Noninvasive procedures include injections, suturing of minor lacerations, and incisions of boils or superficial abscesses. Primary dental care shall be limited to diagnosis, oral hygiene, restoration, and extractions and shall not include orthodontia, or other specialized care and treatment;

(3) The provision of liability insurance coverage shall not extend to acts outside the scope of rendering health care services pursuant to this section and RCW 43.70.460;

(4) The participating health care provider shall limit the provision of health care services to primarily low-income persons provided that clinics may, but are not required to, provide means tests for eligibility as a condition for obtaining health care services;

(5) The participating health care provider shall not accept compensation for providing health care services from patients served pursuant to this section and RCW 43.70.460, nor from clinics serving these patients. "Compensation" shall mean any remuneration of value to the participating health care provider for services provided by the health care provider, but shall not be construed to include any nominal copayments charged by the clinic, nor reimbursement of related expenses of a participating health care provider authorized by the clinic in advance of being incurred; and

(6) The use of mediation or arbitration for resolving questions of potential liability may be used, however any mediation or arbitration agreement format shall be expressed in terms clear enough for a person with a sixth grade level of education to understand, and on a form no longer than one page in length.

Sec. 32. RCW 46.19.010 and 2017 c 112 s 1 are each amended to read as follows:

(1) A natural person who has a disability that meets one of the following criteria may apply for special parking privileges:

(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) Has such a severe disability 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 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;

(g) Has a disability resulting from an acute sensitivity to automobile emissions that limits or impairs the ability to walk. The personal physician, advanced registered nurse practitioner, or physician assistant of the applicant shall document that the disability is comparable in severity to the others listed in this subsection;

(h) Has limited mobility and has no vision or whose vision with corrective lenses is so limited that the person requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by persons with normal vision;

(i) Has an eye condition of a progressive nature that may lead to blindness;
or

(j) Is restricted by a form of porphyria to the extent that the applicant would significantly benefit from a decrease in exposure to light.

(2) The disability must be determined by either:

(a) A licensed physician;

(b) An advanced registered nurse practitioner licensed under chapter 18.79 RCW; or

(c) A physician assistant licensed under chapter 18.71A (~~or 18.57A~~) RCW.

(3) A health care practitioner listed under subsection (2) of this section who is authorizing a parking permit for purposes of this chapter must provide a signed written authorization: On a prescription pad or paper, as defined in RCW 18.64.500; on office letterhead; or by electronic means, as described by the director in rule.

(4) The application for special parking privileges for persons with disabilities must contain:

(a) The following statement immediately below the physician's, advanced registered nurse practitioner's, or physician assistant's signature: "A parking permit for a person with disabilities may be issued only for a medical necessity that severely affects mobility or involves acute sensitivity to light (RCW 46.19.010). An applicant or health care practitioner who knowingly provides false information on this application is guilty of a gross misdemeanor. The penalty is up to three hundred sixty-four days in jail and a fine of up to \$5,000 or both. In addition, the health care practitioner may be subject to sanctions under chapter 18.130 RCW, the Uniform Disciplinary Act"; and

(b) Other information as required by the department.

(5) A natural person who has a disability described in subsection (1) of this section and is expected to improve within twelve months may be issued a temporary placard for a period not to exceed twelve months. If the disability exists after twelve months, a new temporary placard must be issued upon receipt of a new application with certification from the person's physician as prescribed in subsections (3) and (4) of this section. Special license plates for persons with disabilities may not be issued to a person with a temporary disability.

(6) A natural person who qualifies for special parking privileges under this section must receive an identification card showing the name and date of birth of the person to whom the parking privilege has been issued and the serial number of the placard.

(7) A natural person who qualifies for permanent special parking privileges under this section may receive one of the following:

(a) Up to two parking placards;

(b) One set of special license plates for persons with disabilities if the person with the disability is the registered owner of the vehicle on which the license plates will be displayed;

(c) One parking placard and one set of special license plates for persons with disabilities if the person with the disability is the registered owner of the vehicle on which the license plates will be displayed; or

(d) One special parking year tab for persons with disabilities and one parking placard.

(8) Parking placards and identification cards described in this section must be issued free of charge.

(9) The parking placard and identification card must be immediately returned to the department upon the placard holder's death.

Sec. 33. RCW 46.61.506 and 2017 c 336 s 7 are each amended to read as follows:

(1) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or any drug, if the person's alcohol concentration is less than 0.08 or the person's THC concentration is less than 5.00, it is evidence that may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor or any drug.

(2)(a) The breath analysis of the person's alcohol concentration shall be based upon grams of alcohol per two hundred ten liters of breath.

(b) The blood analysis of the person's THC concentration shall be based upon nanograms per milliliter of whole blood.

(c) The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor or any drug.

(3) Analysis of the person's blood or breath to be considered valid under the provisions of this section or RCW 46.61.502 or 46.61.504 shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose. The state toxicologist is directed to approve satisfactory techniques or methods, to supervise the examination of individuals to ascertain their qualifications and competence to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the state toxicologist.

(4)(a) A breath test performed by any instrument approved by the state toxicologist shall be admissible at trial or in an administrative proceeding if the prosecution or department produces prima facie evidence of the following:

(i) The person who performed the test was authorized to perform such test by the state toxicologist;

(ii) The person being tested did not vomit or have anything to eat, drink, or smoke for at least fifteen minutes prior to administration of the test;

(iii) The person being tested did not have any foreign substances, not to include dental work or piercings, fixed or removable, in his or her mouth at the beginning of the fifteen-minute observation period;

(iv) Prior to the start of the test, the temperature of any liquid simulator solution utilized as an external standard, as measured by a thermometer approved of by the state toxicologist was thirty-four degrees centigrade plus or minus 0.3 degrees centigrade;

(v) The internal standard test resulted in the message "verified";

(vi) The two breath samples agree to within plus or minus ten percent of their mean to be determined by the method approved by the state toxicologist;

(vii) The result of the test of the liquid simulator solution external standard or dry gas external standard result did lie between .072 to .088 inclusive; and

(viii) All blank tests gave results of .000.

(b) For purposes of this section, "prima facie evidence" is evidence of sufficient circumstances that would support a logical and reasonable inference of the facts sought to be proved. In assessing whether there is sufficient evidence of the foundational facts, the court or administrative tribunal is to assume the truth of the prosecution's or department's evidence and all reasonable inferences from it in a light most favorable to the prosecution or department.

(c) Nothing in this section shall be deemed to prevent the subject of the test from challenging the reliability or accuracy of the test, the reliability or functioning of the instrument, or any maintenance procedures. Such challenges, however, shall not preclude the admissibility of the test once the prosecution or department has made a prima facie showing of the requirements contained in (a) of this subsection. Instead, such challenges may be considered by the trier of fact in determining what weight to give to the test result.

(5) When a blood test is administered under the provisions of RCW 46.20.308, the withdrawal of blood for the purpose of determining its alcohol or drug content may be performed only by a physician licensed under chapter 18.71 RCW; an osteopathic physician licensed under chapter 18.57 RCW; a registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; a physician assistant licensed under chapter 18.71A RCW; ~~((an osteopathic physician assistant licensed under chapter 18.57A RCW;))~~ an advanced emergency medical technician or paramedic certified under chapter 18.71 RCW; or a medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, a person holding another credential under Title 18 RCW whose scope of practice includes performing venous blood draws, or a forensic phlebotomist certified under chapter 18.360 RCW. When the blood test is performed outside the state of Washington, the withdrawal of blood for the purpose of determining its alcohol or drug content may be performed by any person who is authorized by the out-of-state jurisdiction to perform venous blood draws. Proof of qualification to draw blood may be established through the department of health's provider credential search. This limitation shall not apply to the taking of breath specimens.

(6) When a venous blood sample is performed by a forensic phlebotomist certified under chapter 18.360 RCW, it must be done under the following conditions:

(a) If taken at the scene, it must be performed in an ambulance or aid service vehicle licensed by the department of health under chapter 18.73 RCW.

(b) The collection of blood samples must not interfere with the provision of essential medical care.

(c) The blood sample must be collected using sterile equipment and the skin area of puncture must be thoroughly cleansed and disinfected.

(d) The person whose blood is collected must be seated, reclined, or lying down when the blood is collected.

(7) The person tested may have a licensed or certified health care provider listed in subsection (5) of this section, or a qualified technician, chemist, or other qualified person of his or her own choosing administer one or more tests in addition to any administered at the direction of a law enforcement officer. The test will be admissible if the person establishes the general acceptability of the testing technique or method. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(8) Upon the request of the person who shall submit to a test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or her or his or her attorney.

Sec. 34. RCW 46.61.508 and 2017 c 336 s 8 are each amended to read as follows:

No physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; (~~osteopathic physician assistant licensed under chapter 18.57A RCW;~~) advanced emergency medical technician or paramedic certified under chapter 18.71 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, person holding another credential under Title 18 RCW whose scope of practice includes performing venous blood draws, or forensic phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider, shall incur any civil or criminal liability as a result of the act of withdrawing blood from any person when directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant, a waiver of the search warrant requirement, exigent circumstances, or any other authority of law: PROVIDED, That nothing in this section shall relieve such licensed or certified health care provider, hospital or duly licensed clinical laboratory, or forensic phlebotomist from civil liability arising from the use of improper procedures or failing to exercise the required standard of care.

Sec. 35. RCW 48.42.100 and 2000 c 7 s 1 are each amended to read as follows:

(1) For purposes of this section, health care carriers includes disability insurers regulated under chapter 48.20 or 48.21 RCW, health care services contractors regulated under chapter 48.44 RCW, health maintenance

organizations regulated under chapter 48.46 RCW, plans operating under the health care authority under chapter 41.05 RCW, the state health insurance pool operating under chapter 48.41 RCW, and insuring entities regulated under chapter 48.43 RCW.

(2) For purposes of this section and consistent with their lawful scopes of practice, types of health care practitioners that provide women's health care services shall include, but need not be limited by a health care carrier to, the following: Any generally recognized medical specialty of practitioners licensed under chapter 18.57 or 18.71 RCW who provides women's health care services; practitioners licensed under ~~((chapters 18.57A and))~~ chapter 18.71A RCW when providing women's health care services; midwives licensed under chapter 18.50 RCW; and advanced registered nurse practitioner specialists in women's health and midwifery under chapter 18.79 RCW.

(3) For purposes of this section, women's health care services shall include, but need not be limited by a health care carrier to, the following: Maternity care; reproductive health services; gynecological care; general examination; and preventive care as medically appropriate and medically appropriate follow-up visits for the services listed in this subsection.

(4) Health care carriers shall ensure that enrolled female patients have direct access to timely and appropriate covered women's health care services from the type of health care practitioner of their choice in accordance with subsection (5) of this section.

(5)(a) Health care carrier policies, plans, and programs written, amended, or renewed after July 23, 1995, shall provide women patients with direct access to the type of health care practitioner of their choice for appropriate covered women's health care services without the necessity of prior referral from another type of health care practitioner.

(b) Health care carriers may comply with this section by including all the types of health care practitioners listed in this section for women's health care services for women patients.

(c) Nothing in this section shall prevent health care carriers from restricting women patients to seeing only health care practitioners who have signed participating provider agreements with the health care carrier.

Sec. 36. RCW 48.43.094 and 2015 c 237 s 1 are each amended to read as follows:

(1) For health plans issued or renewed on or after January 1, 2017:

(a) Benefits shall not be denied for any health care service performed by a pharmacist licensed under chapter 18.64 RCW if:

(i) The service performed was within the lawful scope of such person's license;

(ii) The plan would have provided benefits if the service had been performed by a physician licensed under chapter 18.71 or 18.57 RCW, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a physician's assistant licensed under chapter 18.71A ~~((or 18.57A))~~ RCW; and

(iii) The pharmacist is included in the plan's network of participating providers; and

(b) The health plan must include an adequate number of pharmacists in its network of participating medical providers.

(2) The participation of pharmacies in the plan network's drug benefit does not satisfy the requirement that plans include pharmacists in their networks of participating medical providers.

(3) For health benefit plans issued or renewed on or after January 1, 2016, but before January 1, 2017, health plans that delegate credentialing agreements to contracted health care facilities must accept credentialing for pharmacists employed or contracted by those facilities. Health plans must reimburse facilities for covered services provided by network pharmacists within the pharmacists' scope of practice per negotiations with the facility.

(4) This section does not supersede the requirements of RCW 48.43.045.

Sec. 37. RCW 48.43.115 and 2003 c 248 s 14 are each amended to read as follows:

(1) The legislature recognizes the role of health care providers as the appropriate authority to determine and establish the delivery of quality health care services to maternity patients and their newly born children. It is the intent of the legislature to recognize patient preference and the clinical sovereignty of providers as they make determinations regarding services provided and the length of time individual patients may need to remain in a health care facility after giving birth. It is not the intent of the legislature to diminish a carrier's ability to utilize managed care strategies but to ensure the clinical judgment of the provider is not undermined by restrictive carrier contracts or utilization review criteria that fail to recognize individual postpartum needs.

(2) Unless otherwise specifically provided, the following definitions apply throughout this section:

(a) "Attending provider" means a provider who: Has clinical hospital privileges consistent with RCW 70.43.020; is included in a provider network of the carrier that is providing coverage; and is a physician licensed under chapter 18.57 or 18.71 RCW, a certified nurse midwife licensed under chapter 18.79 RCW, a midwife licensed under chapter 18.50 RCW, a physician's assistant licensed under chapter ~~((18.57A-01))~~ 18.71A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(b) "Health carrier" or "carrier" means disability insurers regulated under chapter 48.20 or 48.21 RCW, health care services contractors regulated under chapter 48.44 RCW, health maintenance organizations regulated under chapter 48.46 RCW, plans operating under the health care authority under chapter 41.05 RCW, the state health insurance pool operating under chapter 48.41 RCW, and insuring entities regulated under this chapter.

(3)(a) Every health carrier that provides coverage for maternity services must permit the attending provider, in consultation with the mother, to make decisions on the length of inpatient stay, rather than making such decisions through contracts or agreements between providers, hospitals, and insurers. These decisions must be based on accepted medical practice.

(b) Covered eligible services may not be denied for inpatient, postdelivery care to a mother and her newly born child after a vaginal delivery or a cesarean section delivery for such care as ordered by the attending provider in consultation with the mother.

(c) At the time of discharge, determination of the type and location of follow-up care must be made by the attending provider in consultation with the

mother rather than by contract or agreement between the hospital and the insurer. These decisions must be based on accepted medical practice.

(d) Covered eligible services may not be denied for follow-up care, including in-person care, as ordered by the attending provider in consultation with the mother. Coverage for providers of follow-up services must include, but need not be limited to, attending providers as defined in this section, home health agencies licensed under chapter 70.127 RCW, and registered nurses licensed under chapter 18.79 RCW.

(e) This section does not require attending providers to authorize care they believe to be medically unnecessary.

(f) Coverage for the newly born child must be no less than the coverage of the child's mother for no less than three weeks, even if there are separate hospital admissions.

(4) A carrier that provides coverage for maternity services may not deselect, terminate the services of, require additional documentation from, require additional utilization review of, reduce payments to, or otherwise provide financial disincentives to any attending provider or health care facility solely as a result of the attending provider or health care facility ordering care consistent with this section. This section does not prevent any insurer from reimbursing an attending provider or health care facility on a capitated, case rate, or other financial incentive basis.

(5) Every carrier that provides coverage for maternity services must provide notice to policyholders regarding the coverage required under this section. The notice must be in writing and must be transmitted at the earliest of the next mailing to the policyholder, the yearly summary of benefits sent to the policyholder, or January 1 of the year following June 6, 1996.

(6) This section does not establish a standard of medical care.

(7) This section applies to coverage for maternity services under a contract issued or renewed by a health carrier after June 6, 1996, and applies to plans operating under the health care authority under chapter 41.05 RCW beginning January 1, 1998.

Sec. 38. RCW 51.04.030 and 2011 c 290 s 1 are each amended to read as follows:

(1) The director shall supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of (~~chapters 18.57A and~~) chapter 18.71A RCW, acting under a supervising physician, including chiropractic care, and including care provided by licensed advanced registered nurse practitioners, to workers injured during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment: PROVIDED, That the medical coverage decisions of the department do not constitute a "rule" as used in RCW 34.05.010(16), nor are such decisions subject to the rule-making provisions of chapter 34.05 RCW except that criteria for establishing medical coverage decisions shall be adopted by rule after consultation with the workers' compensation advisory committee established in RCW 51.04.110: PROVIDED

FURTHER, That the department may recommend to an injured worker particular health care services and providers where specialized treatment is indicated or where cost-effective payment levels or rates are obtained by the department: AND PROVIDED FURTHER, That the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured workers.

(2) The director shall, in consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed advanced registered nurse practitioner, physicians' assistants as defined in (~~chapters 18.57A and~~) chapter 18.71A RCW, acting under a supervising physician or other agency or person rendering services to injured workers. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to injured workers, whether aliens or other injured workers, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule and its associated billing or payment instructions and policies constitute a "rule" as used in RCW 34.05.010(16).

(3) The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured workers, shall approve and pay those which conform to the adopted rules, regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it.

Sec. 39. RCW 51.28.100 and 2007 c 263 s 1 are each amended to read as follows:

The department shall accept the signature of a physician assistant on any certificate, card, form, or other documentation required by the department that the physician assistant's supervising physician or physicians may sign, provided that it is within the physician assistant's scope of practice, and is consistent with the terms of the physician assistant's practice (~~(arrangement plan)~~) agreement as required by (~~chapters 18.57A and~~) chapter 18.71A RCW. Consistent with the terms of this section, the authority of a physician assistant to sign such certificates, cards, forms, or other documentation includes, but is not limited to, the execution of the certificate required in RCW 51.28.020. A physician assistant may not rate a worker's permanent partial disability under RCW 51.32.055.

Sec. 40. RCW 69.41.010 and 2019 c 358 s 6 and 2019 c 308 s 23 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (a) A practitioner; or
- (b) The patient or research subject at the direction of the practitioner.

(2) "Commission" means the pharmacy quality assurance commission.

(3) "Community-based care settings" include: Community residential programs for persons with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(4) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(5) "Department" means the department of health.

(6) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(7) "Dispenser" means a practitioner who dispenses.

(8) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(9) "Distributor" means a person who distributes.

(10) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of human beings or animals; and

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(11) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization transmitted verbally by telephone nor a facsimile manually signed by the practitioner.

(12) "In-home care settings" include an individual's place of temporary and permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings.

(13) "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(14) "Legible prescription" means a prescription or medication order issued by a practitioner that is capable of being read and understood by the pharmacist filling the prescription or the nurse or other practitioner implementing the medication order. A prescription must be hand printed, typewritten, or electronically generated.

(15) "Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department. A nonpractitioner may help in the preparation of legend drugs or controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate. Medication assistance shall not include assistance with intravenous medications or injectable medications, except prefilled insulin syringes.

(16) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(17) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, an acupuncturist or acupuncture and Eastern medicine practitioner to the extent authorized under chapter 18.06 RCW and the rules adopted under RCW 18.06.010(1)(j), a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, (~~an osteopathic physician assistant under chapter 18.57A RCW,~~) a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a licensed athletic trainer to the extent authorized under chapter 18.250 RCW, a pharmacist under chapter 18.64 RCW, or, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

(18) "Secretary" means the secretary of health or the secretary's designee.

Sec. 41. RCW 69.41.030 and 2019 c 55 s 9 are each amended to read as follows:

(1) It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71

RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, ~~((an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery,))~~ a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, ~~((a licensed osteopathic physician assistant,))~~ or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter 69.48 RCW.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor.

Sec. 42. RCW 69.45.010 and 2019 c 55 s 10 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Commission" means the pharmacy quality assurance commission.

(2) "Controlled substance" means a drug, substance, or immediate precursor of such drug or substance, so designated under or pursuant to chapter 69.50 RCW, the uniform controlled substances act.

(3) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

(4) "Department" means the department of health.

(5) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(6) "Distribute" means to deliver, other than by administering or dispensing, a legend drug.

(7) "Drug samples" means any federal food and drug administration approved controlled substance, legend drug, or products requiring prescriptions in this state, which is distributed at no charge to a practitioner by a manufacturer or a manufacturer's representative, exclusive of drugs under clinical investigations approved by the federal food and drug administration.

(8) "Legend drug" means any drug that is required by state law or by regulations of the commission to be dispensed on prescription only or is restricted to use by practitioners only.

(9) "Manufacturer" means a person or other entity engaged in the manufacture or distribution of drugs or devices, but does not include a manufacturer's representative.

(10) "Manufacturer's representative" means an agent or employee of a drug manufacturer who is authorized by the drug manufacturer to possess drug samples for the purpose of distribution in this state to appropriately authorized health care practitioners.

(11) "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

(12) "Practitioner" means a physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a pharmacist under chapter 18.64 RCW, a commissioned medical or dental officer in the United States armed forces or the public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized to prescribe by the nursing care quality assurance commission, (~~an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery,~~) or a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission.

(13) "Reasonable cause" means a state of facts found to exist that would warrant a reasonably intelligent and prudent person to believe that a person has violated state or federal drug laws or regulations.

(14) "Secretary" means the secretary of health or the secretary's designee.

Sec. 43. RCW 69.50.101 and 2019 c 394 s 9, 2019 c 158 s 12, and 2019 c 55 s 11 are each reenacted and amended to read as follows:

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

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "Board" means the Washington state liquor and cannabis board.

(d) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(e) "CBD product" means any product containing or consisting of cannabidiol.

(f) "Commission" means the pharmacy quality assurance commission.

(g) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in RCW 15.140.020.

(h)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or chapter 69.77 RCW to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(i) "Deliver" or "delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(j) "Department" means the department of health.

(k) "Designated provider" has the meaning provided in RCW 69.51A.010.

(l) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper

selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(m) "Dispenser" means a practitioner who dispenses.

(n) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(o) "Distributor" means a person who distributes.

(p) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(q) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(r) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(s) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(t) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(u) "Isomer" means an optical isomer, but in subsection (gg)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(v) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(w) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

(x) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either

directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(y) "Marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or

(2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds used for licensed hemp production under chapter 15.140 RCW.

(z) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(aa) "Marijuana processor" means a person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

(bb) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(cc) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(dd) "Marijuana researcher" means a person licensed by the state liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

(ee) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

(ff) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (y) of this section, and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

(gg) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in ~~(subparagraphs)~~ (1) through (7) of this subsection.

(hh) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(ii) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(jj) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(kk) "Plant" has the meaning provided in RCW 69.51A.010.

(ll) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(mm) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; ~~((an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040;))~~ an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in

RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(nn) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(oo) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(pp) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(qq) "Recognition card" has the meaning provided in RCW 69.51A.010.

(rr) "Retail outlet" means a location licensed by the state liquor and cannabis board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

(ss) "Secretary" means the secretary of health or the secretary's designee.

(tt) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(uu) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(vv) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(ww) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

Sec. 44. RCW 69.51A.010 and 2015 c 70 s 17 are each reenacted and amended to read as follows:

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

(1)(a) Until July 1, 2016, "authorization" means:

(i) A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of marijuana; and

(ii) Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035.

(b) Beginning July 1, 2016, "authorization" means a form developed by the department that is completed and signed by a qualifying patient's health care professional and printed on tamper-resistant paper.

(c) An authorization is not a prescription as defined in RCW 69.50.101.

(2) "CBD concentration" means the percent of cannabidiol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product.

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

(4) "Designated provider" means a person who is twenty-one years of age or older and:

(a)(i) Is the parent or guardian of a qualifying patient who is under the age of eighteen and beginning July 1, 2016, holds a recognition card; or

(ii) Has been designated in writing by a qualifying patient to serve as the designated provider for that patient;

(b)(i) Has an authorization from the qualifying patient's health care professional; or

(ii) Beginning July 1, 2016:

(A) Has been entered into the medical marijuana authorization database as being the designated provider to a qualifying patient; and

(B) Has been provided a recognition card;

(c) Is prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient for whom the individual is acting as designated provider;

(d) Provides marijuana to only the qualifying patient that has designated him or her;

(e) Is in compliance with the terms and conditions of this chapter; and

(f) Is the designated provider to only one patient at any one time.

(5) "Health care professional," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, ~~((an osteopathic physicians' assistant licensed under chapter 18.57A RCW.))~~ a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(6) "Housing unit" means a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building, and which have direct access from the outside of the building or through a common hall.

(7) "Low THC, high CBD" means products determined by the department to have a low THC, high CBD ratio under RCW 69.50.375. Low THC, high CBD products must be inhalable, ingestible, or absorbable.

(8) "Marijuana" has the meaning provided in RCW 69.50.101.

(9) "Marijuana concentrates" has the meaning provided in RCW 69.50.101.

(10) "Marijuana processor" has the meaning provided in RCW 69.50.101.

(11) "Marijuana producer" has the meaning provided in RCW 69.50.101.

(12) "Marijuana retailer" has the meaning provided in RCW 69.50.101.

(13) "Marijuana retailer with a medical marijuana endorsement" means a marijuana retailer that has been issued a medical marijuana endorsement by the state liquor and cannabis board pursuant to RCW 69.50.375.

(14) "Marijuana-infused products" has the meaning provided in RCW 69.50.101.

(15) "Medical marijuana authorization database" means the secure and confidential database established in RCW 69.51A.230.

(16) "Medical use of marijuana" means the manufacture, production, possession, transportation, delivery, ingestion, application, or administration of marijuana for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating medical condition.

(17) "Plant" means a marijuana plant having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system is considered part of the same single plant.

(18) "Public place" has the meaning provided in RCW 70.160.020.

(19) "Qualifying patient" means a person who:

(a)(i) Is a patient of a health care professional;

(ii) Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;

(iii) Is a resident of the state of Washington at the time of such diagnosis;

(iv) Has been advised by that health care professional about the risks and benefits of the medical use of marijuana;

(v) Has been advised by that health care professional that they may benefit from the medical use of marijuana;

(vi)(A) Has an authorization from his or her health care professional; or

(B) Beginning July 1, 2016, has been entered into the medical marijuana authorization database and has been provided a recognition card; and

(vii) Is otherwise in compliance with the terms and conditions established in this chapter.

(b) "Qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

(20) "Recognition card" means a card issued to qualifying patients and designated providers by a marijuana retailer with a medical marijuana endorsement that has entered them into the medical marijuana authorization database.

(21) "Retail outlet" has the meaning provided in RCW 69.50.101.

(22) "Secretary" means the secretary of the department of health.

(23) "Tamper-resistant paper" means paper that meets one or more of the following industry-recognized features:

- (a) One or more features designed to prevent copying of the paper;
- (b) One or more features designed to prevent the erasure or modification of information on the paper; or
- (c) One or more features designed to prevent the use of counterfeit authorization.

(24) "Terminal or debilitating medical condition" means a condition severe enough to significantly interfere with the patient's activities of daily living and ability to function, which can be objectively assessed and evaluated and limited to the following:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders;

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications;

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications;

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications;

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications;

(f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications;

(g) Posttraumatic stress disorder; or

(h) Traumatic brain injury.

(25) "THC concentration" has the meaning provided in RCW 69.50.101.

(26) "Useable marijuana" has the meaning provided in RCW 69.50.101.

Sec. 45. RCW 70.41.210 and 2008 c 134 s 14 are each amended to read as follows:

(1) The chief administrator or executive officer of a hospital shall report to the 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 physicians' 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.

(3) Reports made under subsection (1) of this section shall be made within fifteen days of the date: (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 five hundred 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, 2008.

Sec. 46. RCW 70.54.400 and 2009 c 438 s 1 are each amended to read as follows:

(1) For purposes of this section:

(a) "Customer" means an individual who is lawfully on the premises of a retail establishment.

(b) "Eligible medical condition" means:

(i) Crohn's disease, ulcerative colitis, or any other inflammatory bowel disease;

(ii) Irritable bowel syndrome;

(iii) Any condition requiring use of an ostomy device; or

(iv) Any permanent or temporary medical condition that requires immediate access to a restroom.

(c) "Employee restroom" means a restroom intended for employees only in a retail facility and not intended for customers.

(d) "Health care provider" means an advanced registered nurse practitioner licensed under chapter 18.79 RCW, an osteopathic physician or surgeon licensed

under chapter 18.57 RCW, (~~an osteopathic physician assistant licensed under chapter 18.57A RCW;~~) a physician or surgeon licensed under chapter 18.71 RCW, or a physician assistant licensed under chapter 18.71A RCW.

(e) "Retail establishment" means a place of business open to the general public for the sale of goods or services. Retail establishment does not include any structure such as a filling station, service station, or restaurant of eight hundred square feet or less that has an employee restroom located within that structure.

(2) A retail establishment that has an employee restroom must allow a customer with an eligible medical condition to use that employee restroom during normal business hours if:

(a) The customer requesting the use of the employee restroom provides in writing either:

(i) A signed statement by the customer's health care provider on a form that has been prepared by the department of health under subsection (4) of this section; or

(ii) An identification card that is issued by a nonprofit organization whose purpose includes serving individuals who suffer from an eligible medical condition; and

(b) One of the following conditions are met:

(i) The employee restroom is reasonably safe and is not located in an area where providing access would create an obvious health or safety risk to the customer; or

(ii) Allowing the customer to access the restroom facility does not pose a security risk to the retail establishment or its employees.

(3) A retail establishment that has an employee restroom must allow a customer to use that employee restroom during normal business hours if:

(a)(i) Three or more employees of the retail establishment are working at the time the customer requests use of the employee restroom; and

(ii) The retail establishment does not normally make a restroom available to the public; and

(b)(i) The employee restroom is reasonably safe and is not located in an area where providing access would create an obvious health or safety risk to the customer; or

(ii) Allowing the customer to access the employee restroom does not pose a security risk to the retail establishment or its employees.

(4) The department of health shall develop a standard electronic form that may be signed by a health care provider as evidence of the existence of an eligible medical condition as required by subsection (2) of this section. The form shall include a brief description of a customer's rights under this section and shall be made available for a customer or his or her health care provider to access by computer. Nothing in this section requires the department to distribute printed versions of the form.

(5) Fraudulent use of a form as evidence of the existence of an eligible medical condition is a misdemeanor punishable under RCW 9A.20.010.

(6) For a first violation of this section, the city or county attorney shall issue a warning letter to the owner or operator of the retail establishment, and to any employee of a retail establishment who denies access to an employee restroom in violation of this section, informing the owner or operator of the establishment

and employee of the requirements of this section. A retail establishment or an employee of a retail establishment that violates this section after receiving a warning letter is guilty of a class 2 civil infraction under chapter 7.80 RCW.

(7) A retail establishment is not required to make any physical changes to an employee restroom under this section and may require that an employee accompany a customer or a customer with an eligible medical condition to the employee restroom.

(8) A retail establishment or an employee of a retail establishment is not civilly liable for any act or omission in allowing a customer or a customer with an eligible medical condition to use an employee restroom if the act or omission meets all of the following:

(a) It is not willful or grossly negligent;

(b) It occurs in an area of the retail establishment that is not accessible to the public; and

(c) It results in an injury to or death of the customer or the customer with an eligible medical condition or any individual other than an employee accompanying the customer or the customer with an eligible medical condition.

Sec. 47. RCW 70.128.120 and 2015 c 66 s 2 are each amended to read as follows:

Each adult family home provider, applicant, and each resident manager shall have the following minimum qualifications, except that only applicants are required to meet the provisions of subsections (10) and (11) of this section:

(1) Twenty-one years of age or older;

(2) For those applying after September 1, 2001, to be licensed as providers, and for resident managers whose employment begins after September 1, 2001, a United States high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 or any English or translated government documentation of the following:

(a) Successful completion of government-approved public or private school education in a foreign country that includes an annual average of one thousand hours of instruction over twelve years or no less than twelve thousand hours of instruction;

(b) A foreign college, foreign university, or United States community college two-year diploma;

(c) Admission to, or completion of coursework at, a foreign university or college for which credit was granted;

(d) Admission to, or completion of coursework at, a United States college or university for which credits were awarded;

(e) Admission to, or completion of postgraduate coursework at, a United States college or university for which credits were awarded; or

(f) Successful passage of the United States board examination for registered nursing, or any professional medical occupation for which college or university education preparation was required;

(3) Good moral and responsible character and reputation;

(4) Literacy and the ability to communicate in the English language;

(5) Management and administrative ability to carry out the requirements of this chapter;

(6) Satisfactory completion of department-approved basic training and continuing education training as required by RCW 74.39A.074, and in rules adopted by the department;

(7) Satisfactory completion of department-approved, or equivalent, special care training before a provider may provide special care services to a resident;

(8) Not been convicted of any crime that is disqualifying under RCW 43.43.830 or 43.43.842, or department rules adopted under this chapter, or been found to have abused, neglected, exploited, or abandoned a minor or vulnerable adult as specified in RCW 74.39A.056(2);

(9) For those applying to be licensed as providers, and for resident managers whose employment begins after August 24, 2011, at least one thousand hours in the previous sixty months of successful, direct caregiving experience obtained after age eighteen to vulnerable adults in a licensed or contracted setting prior to operating or managing an adult family home. The applicant or resident manager must have credible evidence of the successful, direct caregiving experience or, currently hold one of the following professional licenses: Physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; (~~osteopathic physician assistant licensed under chapter 18.57A RCW;~~) physician assistant licensed under chapter 18.71A RCW; registered nurse, advanced registered nurse practitioner, or licensed practical nurse licensed under chapter 18.79 RCW;

(10) For applicants, proof of financial solvency, as defined in rule; and

(11) Applicants must successfully complete an adult family home administration and business planning class, prior to being granted a license. The class must be a minimum of forty-eight hours of classroom time and approved by the department. The department shall promote and prioritize bilingual capabilities within available resources and when materials are available for this purpose. Under exceptional circumstances, such as the sudden and unexpected death of a provider, the department may consider granting a license to an applicant who has not completed the class but who meets all other requirements. If the department decides to grant the license due to exceptional circumstances, the applicant must have enrolled in or completed the class within four months of licensure.

Sec. 48. RCW 70.180.030 and 1994 sp.s. c 9 s 746 and 1994 c 103 s 2 are each reenacted and amended to read as follows:

(1) The department, in cooperation with the University of Washington school of medicine, the state's registered nursing programs, the state's pharmacy programs, and other appropriate public and private agencies and associations, shall develop and keep current a register of physicians, physician assistants, pharmacists, and advanced registered nurse practitioners who are available to practice on a short-term basis in rural communities of the state. The department shall list only individuals who have a valid license to practice. The register shall be compiled and made available to all rural hospitals, public health departments and districts, rural pharmacies, and other appropriate public and private agencies and associations.

(2) Eligible health care professionals are those licensed under chapters 18.57, (~~18.57A;~~) 18.64, 18.71, and 18.71A RCW and advanced registered nurse practitioners licensed under chapter 18.79 RCW.

(3) Participating sites may:

(a) Receive reimbursement for substitute provider travel to and from the rural community and for lodging at a rate determined under RCW 43.03.050 and 43.03.060; and

(b) Receive reimbursement for the cost of malpractice insurance if the services provided are not covered by the substitute provider's or local provider's existing medical malpractice insurance. Reimbursement for malpractice insurance shall only be made available to sites that incur additional costs for substitute provider coverage.

(4) The department may require rural communities to participate in health professional recruitment programs as a condition for providing a temporary substitute health care professional if the community does not have adequate permanent health care personnel. To the extent deemed appropriate and subject to funding, the department may also require communities to participate in other programs or projects, such as the rural health system project authorized in chapter 70.175 RCW, that are designed to assist communities to reorganize the delivery of rural health care services.

(5) A participating site may receive reimbursement for substitute provider assistance as provided for in subsection (3) of this section for up to ninety days during any twelve-month period. The department may modify or waive this limitation should it determine that the health and safety of the community warrants a waiver or modification.

(6) Participating sites shall:

(a) Be responsible for all salary expenses for the temporary substitute provider.

(b) Provide the temporary substitute provider with referral and backup coverage information.

Sec. 49. RCW 70.185.090 and 1993 c 492 s 274 are each amended to read as follows:

(1) The department may develop a mechanism for underserved rural or urban communities to contract with education and training programs for student positions above the full time equivalent lids. The goal of this program is to provide additional capacity, educating students who will practice in underserved communities.

(2) Eligible education and training programs are those programs approved by the department that lead to eligibility for a credential as a credentialed health care professional. Eligible professions are those licensed under chapters 18.36A, 18.57, ~~((18.57A,))~~ 18.71, and 18.71A RCW and advanced registered nurse practitioners and certified nurse midwives licensed under chapter ~~((18.88))~~ 18.79 RCW, and may include other providers identified as needed in the health personnel resource plan.

(3) Students participating in the community contracted educational positions shall meet all applicable educational program requirements and provide assurances, acceptable to the community, that they will practice in the sponsoring community following completion of education and necessary licensure.

(4) Participants in the program incur an obligation to repay any contracted funds with interest set by state law, unless they serve at least three years in the sponsoring community.

(5) The department may provide funds to communities for use in contracting.

Sec. 50. RCW 70.225.040 and 2019 c 314 s 23 are each amended to read as follows:

(1) All information submitted to the prescription monitoring program is confidential, exempt from public inspection, copying, and disclosure under chapter 42.56 RCW, not subject to subpoena or discovery in any civil action, and protected under federal health care information privacy requirements, except as provided in subsections (3) through (6) of this section. Such confidentiality and exemption from disclosure continues whenever information from the prescription monitoring program is provided to a requestor under subsection (3), (4), (5), or (6) of this section except when used in proceedings specifically authorized in subsection (3), (4), or (5) of this section.

(2) The department must maintain procedures to ensure that the privacy and confidentiality of all information collected, recorded, transmitted, and maintained including, but not limited to, the prescriber, requestor, dispenser, patient, and persons who received prescriptions from dispensers, is not disclosed to persons except as in subsections (3) through (6) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances or legend drugs, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) A health professional licensing, certification, or regulatory agency or entity in this or another jurisdiction. Consistent with current practice, the data provided may be used in legal proceedings concerning the license;

(d) Appropriate law enforcement or prosecutorial officials, including local, state, and federal officials and officials of federally recognized tribes, who are engaged in a bona fide specific investigation involving a designated person;

(e) The director or the director's designee within the health care authority regarding medicaid recipients and members of the health care authority self-funded or self-insured health plans;

(f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;

(g) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;

(h) Other entities under grand jury subpoena or court order;

(i) Personnel of the department for purposes of:

(i) Assessing prescribing and treatment practices and morbidity and mortality related to use of controlled substances and developing and implementing initiatives to protect the public health including, but not limited to, initiatives to address opioid use disorder;

(ii) Providing quality improvement feedback to prescribers, including comparison of their respective data to aggregate data for prescribers with the same type of license and same specialty; and

(iii) Administration and enforcement of this chapter or chapter 69.50 RCW;

(j) Personnel of a test site that meet the standards under RCW 70.225.070 pursuant to an agreement between the test site and a person identified in (a) of this subsection to provide assistance in determining which medications are being used by an identified patient who is under the care of that person;

(k) A health care facility or entity for the purpose of providing medical or pharmaceutical care to the patients of the facility or entity, or for quality improvement purposes if the facility or entity is licensed by the department or is licensed or certified under chapter 71.24, 71.34, or 71.05 RCW or is an entity deemed for purposes of chapter 71.24 RCW to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body, or is operated by the federal government or a federally recognized Indian tribe;

(l) A health care provider group of five or more prescribers or dispensers for purposes of providing medical or pharmaceutical care to the patients of the provider group, or for quality improvement purposes if all the prescribers or dispensers in the provider group are licensed by the department or the provider group is operated by the federal government or a federally recognized Indian tribe;

(m) The local health officer of a local health jurisdiction for the purposes of patient follow-up and care coordination following a controlled substance overdose event. For the purposes of this subsection "local health officer" has the same meaning as in RCW 70.05.010; and

(n) The coordinated care electronic tracking program developed in response to section 213, chapter 7, Laws of 2012 2nd sp. sess., commonly referred to as the seven best practices in emergency medicine, for the purposes of providing:

(i) Prescription monitoring program data to emergency department personnel when the patient registers in the emergency department; and

(ii) Notice to local health officers who have made opioid-related overdose a notifiable condition under RCW 70.05.070 as authorized by rules adopted under RCW 43.20.050, providers, appropriate care coordination staff, and prescribers listed in the patient's prescription monitoring program record that the patient has experienced a controlled substance overdose event. The department shall determine the content and format of the notice in consultation with the Washington state hospital association, Washington state medical association, and Washington state health care authority, and the notice may be modified as necessary to reflect current needs and best practices.

(4) The department shall, on at least a quarterly basis, and pursuant to a schedule determined by the department, provide a facility or entity identified under subsection (3)(k) of this section or a provider group identified under subsection (3)(l) of this section with facility or entity and individual prescriber information if the facility, entity, or provider group:

(a) Uses the information only for internal quality improvement and individual prescriber quality improvement feedback purposes and does not use the information as the sole basis for any medical staff sanction or adverse employment action; and

(b) Provides to the department a standardized list of current prescribers of the facility, entity, or provider group. The specific facility, entity, or provider group information provided pursuant to this subsection and the requirements under this subsection must be determined by the department in consultation with the Washington state hospital association, Washington state medical association,

and Washington state health care authority, and may be modified as necessary to reflect current needs and best practices.

(5)(a) The department may publish or provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used directly or indirectly to identify individual patients, requestors, dispensers, prescribers, and persons who received prescriptions from dispensers. Direct and indirect patient identifiers may be provided for research that has been approved by the Washington state institutional review board and by the department through a data-sharing agreement.

(b)(i) The department may provide dispenser and prescriber data and data that includes indirect patient identifiers to the Washington state hospital association for use solely in connection with its coordinated quality improvement program maintained under RCW 43.70.510 after entering into a data use agreement as specified in RCW 43.70.052(8) with the association. The department may provide dispenser and prescriber data and data that includes indirect patient identifiers to the Washington state medical association for use solely in connection with its coordinated quality improvement program maintained under RCW 43.70.510 after entering into a data use agreement with the association.

(ii) The department may provide data including direct and indirect patient identifiers to the department of social and health services office of research and data analysis, the department of labor and industries, and the health care authority for research that has been approved by the Washington state institutional review board and, with a data-sharing agreement approved by the department, for public health purposes to improve the prevention or treatment of substance use disorders.

(iii) The department may provide a prescriber feedback report to the largest health professional association representing each of the prescribing professions. The health professional associations must distribute the feedback report to prescribers engaged in the professions represented by the associations for quality improvement purposes, so long as the reports contain no direct patient identifiers that could be used to identify individual patients, dispensers, and persons who received prescriptions from dispensers, and the association enters into a written data-sharing agreement with the department. However, reports may include indirect patient identifiers as agreed to by the department and the association in a written data-sharing agreement.

(c) For the purposes of this subsection:

(i) "Indirect patient identifiers" means data that may include: Hospital or provider identifiers, a five-digit zip code, county, state, and country of resident; dates that include month and year; age in years; and race and ethnicity; but does not include the patient's first name; middle name; last name; social security number; control or medical record number; zip code plus four digits; dates that include day, month, and year; or admission and discharge date in combination; and

(ii) "Prescribing professions" include:

(A) Allopathic physicians and physician assistants;

(B) Osteopathic physicians (~~and physician assistants~~);

(C) Podiatric physicians;

(D) Dentists; and

(E) Advanced registered nurse practitioners.

(6) The department may enter into agreements to exchange prescription monitoring program data with established prescription monitoring programs in other jurisdictions. Under these agreements, the department may share prescription monitoring system data containing direct and indirect patient identifiers with other jurisdictions through a clearinghouse or prescription monitoring program data exchange that meets federal health care information privacy requirements. Data the department receives from other jurisdictions must be retained, used, protected, and destroyed as provided by the agreements to the extent consistent with the laws in this state.

(7) Persons authorized in subsections (3) through (6) of this section to receive data in the prescription monitoring program from the department, acting in good faith, are immune from any civil, criminal, disciplinary, or administrative liability that might otherwise be incurred or imposed for acting under this chapter.

Sec. 51. RCW 71.05.020 and 2019 c 446 s 2, 2019 c 444 s 16, and 2019 c 325 s 3001 are each reenacted and amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(8) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(9) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(10) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and

treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(11) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(12) "Department" means the department of health;

(13) "Designated crisis responder" means a mental health professional appointed by the county or an entity appointed by the county, to perform the duties specified in this chapter;

(14) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(16) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(17) "Director" means the director of the authority;

(18) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(19) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(20) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(21) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(22) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(23) "Hearing" means any proceeding conducted in open court. For purposes of this chapter, at any hearing the petitioner, the respondent, the witnesses, and the presiding judicial officer may be present and participate either in person or by video, as determined by the court. The term "video" as used herein shall include any functional equivalent. At any hearing conducted by video, the technology used must permit the judicial officer, counsel, all parties, and the witnesses to be able to see, hear, and speak, when authorized, during the hearing; to allow attorneys to use exhibits or other materials during the hearing; and to allow respondent's counsel to be in the same location as the respondent unless otherwise requested by the respondent or the respondent's counsel. Witnesses in a proceeding may also appear in court through other means, including telephonically, pursuant to the requirements of superior court civil rule 43. Notwithstanding the foregoing, the court, upon its own motion or upon a motion for good cause by any party, may require all parties and witnesses to participate in the hearing in person rather than by video. In ruling on any such motion, the court may allow in-person or video testimony; and the court may consider, among other things, whether the respondent's alleged mental illness affects the respondent's ability to perceive or participate in the proceeding by video;

(24) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction;

(25) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(26) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a mental disorder or substance use disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

(27) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(28) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

(29) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(30) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(31) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health and substance use disorder service providers under RCW 71.05.130;

(32) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

(33) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(34) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(35) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(36) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(37) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(38) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders or substance use disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure withdrawal management and stabilization facilities as defined in this section, and correctional facilities operated by state and local governments;

(39) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(40) "Physician assistant" means a person licensed as a physician assistant under chapter ~~(18.57A or)~~ 18.71A RCW;

(41) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders;

(42) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(43) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(44) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(45) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(46) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance

use disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(47) "Release" means legal termination of the commitment under the provisions of this chapter;

(48) "Resource management services" has the meaning given in chapter 71.24 RCW;

(49) "Secretary" means the secretary of the department of health, or his or her designee;

(50) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(51) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(52) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(53) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(54) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(55) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(56) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health

services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(57) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(58) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

Sec. 52. RCW 71.24.025 and 2019 c 325 s 1004 and 2019 c 324 s 2 are each reenacted and amended to read as follows:

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(3) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

(4) "Authority" means the Washington state health care authority.

(5) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(6) "Behavioral health administrative services organization" means an entity contracted with the authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(7) "Behavioral health provider" means a person licensed under chapter 18.57, ((18.57A,)) 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(8) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and substance use disorder treatment services as described in this chapter that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

(9) "Child" means a person under the age of eighteen years.

(10) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(11) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(12) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat substance use disorder, mental illness, or both in the community behavioral health system.

(13) "Community behavioral health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders, substance use disorders, or both, as defined under RCW 71.05.020 and receive funding from public sources.

(14) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally or behaviorally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health administrative services organizations.

(15) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(16) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a behavioral health administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to establish a behavioral health administrative services organization.

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

(18) "Designated crisis responder" has the same meaning as in RCW 71.05.020.

(19) "Director" means the director of the authority.

(20) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(21) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(6).

(22) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (23) of this section.

(23) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(24) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in the Indian health care improvement act (25 U.S.C. Sec. 1603).

(25) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

(26) "Licensed or certified behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW;

(b) An entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department; or

(c) An entity with a tribal attestation that it meets state minimum standards for a licensed or certified behavioral health agency.

(27) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(28) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(29) "Managed care organization" means an organization, having a certificate of authority or certificate of registration from the office of the insurance commissioner, that contracts with the authority under a comprehensive risk contract to provide prepaid health care services to enrollees under the authority's managed care programs under chapter 74.09 RCW.

(30) "Mental health peer respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

(31) Mental health "treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services or the authority, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, or by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the entities listed in this subsection, or a treatment facility if the notes or records are not available to others.

(32) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (10), (39), and (40) of this section.

(33) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(34) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (23) of this section but does not meet the full criteria for evidence-based.

(35) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for

persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(36) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(37) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined by a behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as determined by the behavioral health administrative services organization or managed care organization, as applicable.

(38) "Secretary" means the secretary of the department of health.

(39) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(40) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health administrative services organization or managed care organization, if applicable, to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(41) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified behavioral health agencies for the purpose of providing mental health or substance use disorder programs and services, or both;

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

(42) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(43) "Tribe," for the purposes of this section, means a federally recognized Indian tribe.

Sec. 53. RCW 71.32.020 and 2016 c 209 s 407 are each amended to read as follows:

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

(1) "Adult" means any individual who has attained the age of majority or is an emancipated minor.

(2) "Agent" has the same meaning as an attorney-in-fact or agent as provided in chapter 11.125 RCW.

(3) "Capacity" means that an adult has not been found to be incapacitated pursuant to this chapter or RCW 11.88.010(1)(e).

(4) "Court" means a superior court under chapter 2.08 RCW.

(5) "Health care facility" means a hospital, as defined in RCW 70.41.020; an institution, as defined in RCW 71.12.455; a state hospital, as defined in RCW 72.23.010; a nursing home, as defined in RCW 18.51.010; or a clinic that is part of a community mental health service delivery system, as defined in RCW 71.24.025.

(6) "Health care provider" means an osteopathic physician (~~(or osteopathic physician's assistant)~~) licensed under chapter 18.57 (~~(or 18.57A)~~) RCW, a physician or physician's assistant licensed under chapter 18.71 or 18.71A RCW, or an advanced registered nurse practitioner licensed under RCW 18.79.050.

(7) "Incapacitated" means an adult who: (a) Is unable to understand the nature, character, and anticipated results of proposed treatment or alternatives; understand the recognized serious possible risks, complications, and anticipated benefits in treatments and alternatives, including nontreatment; or communicate his or her understanding or treatment decisions; or (b) has been found to be incompetent pursuant to RCW 11.88.010(1)(e).

(8) "Informed consent" means consent that is given after the person: (a) Is provided with a description of the nature, character, and anticipated results of proposed treatments and alternatives, and the recognized serious possible risks, complications, and anticipated benefits in the treatments and alternatives, including nontreatment, in language that the person can reasonably be expected to understand; or (b) elects not to be given the information included in (a) of this subsection.

(9) "Long-term care facility" has the same meaning as defined in RCW 43.190.020.

(10) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

(11) "Mental health advance directive" or "directive" means a written document in which the principal makes a declaration of instructions or preferences or appoints an agent to make decisions on behalf of the principal regarding the principal's mental health treatment, or both, and that is consistent with the provisions of this chapter.

(12) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(13) "Principal" means an adult who has executed a mental health advance directive.

(14) "Professional person" means a mental health professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(15) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

Sec. 54. RCW 71.34.020 and 2019 c 446 s 24, 2019 c 444 s 17, 2019 c 381 s 2, and 2019 c 325 s 2001 are each reenacted and amended to read as follows:

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

(1) "Adolescent" means a minor thirteen years of age or older.

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(3) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(4) "Authority" means the Washington state health care authority.

(5) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(6) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(7) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(8) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105.

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

(11) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(12) "Director" means the director of the authority.

(13) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment

facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(14) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(15) "Gravely disabled minor" means a minor who, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals, is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(16) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure withdrawal management and stabilization facility for minors, or approved substance use disorder treatment program for minors.

(17) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(18) "Kinship caregiver" has the same meaning as in RCW 74.13.031(19)(a).

(19) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

(20) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others.

(21) "Managed care organization" has the same meaning as provided in RCW 71.24.025.

(22) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a mental disorder or substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a handicap, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(23) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history,

antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(24) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, social worker, and such other mental health professionals as defined by rules adopted by the secretary of the department of health under this chapter.

(25) "Minor" means any person under the age of eighteen years.

(26) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified behavioral health agencies as identified by RCW 71.24.025.

(27)(a) "Parent" has the same meaning as defined in RCW 26.26A.010, including either parent if custody is shared under a joint custody agreement, or a person or agency judicially appointed as legal guardian or custodian of the child.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "parent" also includes a person to whom a parent defined in (a) of this subsection has given a signed authorization to make health care decisions for the adolescent, a stepparent who is involved in caring for the adolescent, a kinship caregiver who is involved in caring for the adolescent, or another relative who is responsible for the health care of the adolescent, who may be required to provide a declaration under penalty of perjury stating that he or she is a relative responsible for the health care of the adolescent pursuant to ~~((RCW 9A.72.085))~~ chapter 5.50 RCW. If a dispute arises between individuals authorized to act as a parent for the purpose of RCW 71.34.600 through 71.34.670, the disagreement must be resolved according to the priority established under RCW 7.70.065(2)(a).

(28) "Physician assistant" means a person licensed as a physician assistant under chapter ~~((18.57A-09))~~ 18.71A RCW.

(29) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

(30) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(31) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

(32) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(33) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(34) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(35) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(36) "Secretary" means the secretary of the department or secretary's designee.

(37) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health.

(38) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(39) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(40) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(41) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW, or a person certified as a ~~((chemical dependency))~~ substance use disorder professional trainee under RCW 18.205.095 working under the direct supervision of a certified ~~((chemical dependency))~~ substance use disorder professional.

Sec. 55. RCW 74.09.010 and 2017 c 226 s 5 are each amended to read as follows:

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

(1) "Authority" means the Washington state health care authority.

(2) "Bidirectional integration" means integrating behavioral health services into primary care settings and integrating primary care services into behavioral health settings.

(3) "Children's health program" means the health care services program provided to children under eighteen years of age and in households with incomes at or below the federal poverty level as annually defined by the federal department of health and human services as adjusted for family size, and who are not otherwise eligible for medical assistance or the limited casualty program for the medically needy.

(4) "Chronic care management" means the health care management within a health home of persons identified with, or at high risk for, one or more chronic conditions. Effective chronic care management:

(a) Actively assists patients to acquire self-care skills to improve functioning and health outcomes, and slow the progression of disease or disability;

(b) Employs evidence-based clinical practices;

(c) Coordinates care across health care settings and providers, including tracking referrals;

(d) Provides ready access to behavioral health services that are, to the extent possible, integrated with primary care; and

(e) Uses appropriate community resources to support individual patients and families in managing chronic conditions.

(5) "Chronic condition" means a prolonged condition and includes, but is not limited to:

(a) A mental health condition;

(b) A substance use disorder;

(c) Asthma;

(d) Diabetes;

(e) Heart disease; and

(f) Being overweight, as evidenced by a body mass index over twenty-five.

(6) "County" means the board of county commissioners, county council, county executive, or tribal jurisdiction, or its designee.

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

(8) "Department of health" means the Washington state department of health created pursuant to RCW 43.70.020.

(9) "Director" means the director of the Washington state health care authority.

(10) "Full benefit dual eligible beneficiary" means an individual who, for any month: Has coverage for the month under a medicare prescription drug plan or medicare advantage plan with part D coverage; and is determined eligible by the state for full medicaid benefits for the month under any eligibility category in the state's medicaid plan or a section 1115 demonstration waiver that provides pharmacy benefits.

(11) "Health home" or "primary care health home" means coordinated health care provided by a licensed primary care provider coordinating all medical care services, and a multidisciplinary health care team comprised of clinical and nonclinical staff. The term "coordinating all medical care services" shall not be construed to require prior authorization by a primary care provider in order for a patient to receive treatment for covered services by an optometrist licensed under chapter 18.53 RCW. Primary care health home services shall include those services defined as health home services in 42 U.S.C. Sec. 1396w-4 and, in addition, may include, but are not limited to:

(a) Comprehensive care management including, but not limited to, chronic care treatment and management;

(b) Extended hours of service;

(c) Multiple ways for patients to communicate with the team, including electronically and by phone;

(d) Education of patients on self-care, prevention, and health promotion, including the use of patient decision aids;

(e) Coordinating and assuring smooth transitions and follow-up from inpatient to other settings;

(f) Individual and family support including authorized representatives;

(g) The use of information technology to link services, track tests, generate patient registries, and provide clinical data; and

(h) Ongoing performance reporting and quality improvement.

(12) "Internal management" means the administration of medical assistance, medical care services, the children's health program, and the limited casualty program.

(13) "Limited casualty program" means the medical care program provided to medically needy persons as defined under Title XIX of the federal social security act, and to medically indigent persons who are without income or resources sufficient to secure necessary medical services.

(14) "Medical assistance" means the federal aid medical care program provided to categorically needy persons as defined under Title XIX of the federal social security act.

(15) "Medical care services" means the limited scope of care financed by state funds and provided to persons who are not eligible for medicaid under RCW 74.09.510 and who are eligible for the aged, blind, or disabled assistance program authorized in RCW 74.62.030 or the essential needs and housing support program pursuant to RCW 74.04.805.

(16) "Multidisciplinary health care team" means an interdisciplinary team of health professionals which may include, but is not limited to, medical specialists, nurses, pharmacists, nutritionists, dieticians, social workers, behavioral and mental health providers including substance use disorder prevention and treatment providers, doctors of chiropractic, physical therapists, licensed

complementary and alternative medicine practitioners, home care and other long-term care providers, and physicians' assistants.

(17) "Nursing home" means nursing home as defined in RCW 18.51.010.

(18) "Poverty" means the federal poverty level determined annually by the United States department of health and human services, or successor agency.

(19) "Primary care behavioral health" means a health care integration model in which behavioral health care is colocated, collaborative, and integrated within a primary care setting.

(20) "Primary care provider" means a general practice physician, family practitioner, internist, pediatrician, osteopathic physician, naturopath, physician assistant, (~~osteopathic physician assistant~~) and advanced registered nurse practitioner licensed under Title 18 RCW.

(21) "Secretary" means the secretary of social and health services.

(22) "Whole-person care in behavioral health" means a health care integration model in which primary care services are integrated into a behavioral health setting either through colocation or community-based care management.

Sec. 56. RCW 74.42.010 and 2019 c 301 s 3 and 2019 c 12 s 1 are each reenacted and amended to read as follows:

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

(1) "Department" means the department of social and health services and the department's employees.

(2) "Direct care staff" means the staffing domain identified and defined in the center for medicare and medicaid service's five-star quality rating system and as reported through the center for medicare and medicaid service's payroll-based journal. For purposes of calculating hours per resident day minimum staffing standards for facilities with sixty-one or more licensed beds, the director of nursing services classification (job title code five), as identified in the (~~center's~~) centers for medicare and medicaid (~~service's~~) services payroll-based journal, shall not be used. For facilities with sixty or fewer beds the director of nursing services classification (job title code five) shall be included in calculating hours per resident day minimum staffing standards.

(3) "Facility" refers to a nursing home as defined in RCW 18.51.010.

(4) "Geriatric behavioral health worker" means a person with a bachelor's or master's degree in social work, behavioral health, or other related areas, or a person who has received specialized training devoted to mental illness and treatment of older adults.

(5) "Licensed practical nurse" means a person licensed to practice practical nursing under chapter 18.79 RCW.

(6) "Medicaid" means Title XIX of the Social Security Act enacted by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79 Stat. 343), as amended.

(7) "Nurse practitioner" means a person licensed to practice advanced registered nursing under chapter 18.79 RCW.

(8) "Nursing care" means that care provided by a registered nurse, an advanced registered nurse practitioner, a licensed practical nurse, or a nursing assistant in the regular performance of their duties.

(9) "Physician" means a person practicing pursuant to chapter 18.57 or 18.71 RCW, including, but not limited to, a physician employed by the facility as provided in chapter 18.51 RCW.

(10) "Physician assistant" means a person practicing pursuant to chapter ~~((18.57A or))~~ 18.71A RCW.

(11) "Qualified therapist" means:

(a) An activities specialist who has specialized education, training, or experience specified by the department.

(b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience.

(c) A mental health professional as defined in chapter 71.05 RCW.

(d) An intellectual disabilities professional who is a qualified therapist or a therapist approved by the department and has specialized training or one year experience in treating or working with persons with intellectual or developmental disabilities.

(e) An occupational therapist who is a graduate of a program in occupational therapy or who has equivalent education or training.

(f) A physical therapist as defined in chapter 18.74 RCW.

(g) A social worker as defined in RCW 18.320.010(2).

(h) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has equivalent education and clinical experience.

(12) "Registered nurse" means a person licensed to practice registered nursing under chapter 18.79 RCW.

(13) "Resident" means an individual residing in a nursing home, as defined in RCW 18.51.010.

Sec. 57. RCW 74.42.230 and 2019 c 55 s 20 are each amended to read as follows:

(1) The resident's attending or staff physician or authorized practitioner approved by the attending physician shall order all medications for the resident. The order may be oral or written and shall continue in effect until discontinued by a physician or other authorized prescriber, unless the order is specifically limited by time. An "authorized practitioner," as used in this section, is a registered nurse under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, ~~((an osteopathic physician assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners,))~~ a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or a pharmacist under chapter 18.64 RCW when authorized by the pharmacy quality assurance commission.

(2) An oral order shall be given only to a licensed nurse, pharmacist, or another physician. The oral order shall be recorded and physically or electronically signed immediately by the person receiving the order. The attending physician shall sign the record of the oral order in a manner consistent with good medical practice.

(3) A licensed nurse, pharmacist, or another physician receiving and recording an oral order may, if so authorized by the physician or authorized practitioner, communicate that order to a pharmacy on behalf of the physician or authorized practitioner. The order may be communicated verbally by telephone, by facsimile manually signed by the person receiving the order pursuant to

subsection (2) of this section, or by electronic transmission pursuant to RCW 69.41.055. The communication of a resident's order to a pharmacy by a licensed nurse, pharmacist, or another physician acting at the prescriber's direction has the same force and effect as if communicated directly by the delegating physician or authorized practitioner. Nothing in this provision limits the authority of a licensed nurse, pharmacist, or physician to delegate to an authorized agent, including but not limited to delegation of operation of a facsimile machine by credentialed facility staff, to the extent consistent with his or her professional license.

Sec. 58. RCW 82.04.050 and 2017 3rd sp.s. c 37 s 1201 are each amended to read as follows:

(1)(a) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who:

(i) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(ii) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(iii) Purchases for the purpose of consuming the property purchased in producing for sale as a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(iv) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(v) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065; or

(vi) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(b) The term includes every sale of tangible personal property that is used or consumed or to be used or consumed in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property is resold or used as provided in (a)(i) through (vi) of this subsection following such use.

(c) The term also means every sale of tangible personal property to persons engaged in any business that is taxable under RCW 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

(2) The term "sale at retail" or "retail sale" includes the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and also includes the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but does not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" means those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it is presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it is presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

(g) The installing, repairing, altering, or improving of digital goods for consumers;

(h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this

subsection may be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section may be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" includes the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Abstract, title insurance, and escrow services;

(b) Credit bureau services;

(c) Automobile parking and storage garage services;

(d) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(e) Service charges associated with tickets to professional sporting events;

(f) The following personal services: Tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services; and

(g)(i) Operating an athletic or fitness facility, including all charges for the use of such a facility or for any associated services and amenities, except as provided in (g)(ii) of this subsection.

(ii) Notwithstanding anything to the contrary in (g)(i) of this subsection (3), the term "sale at retail" and "retail sale" under this subsection does not include:

(A) Separately stated charges for the use of an athletic or fitness facility where such use is primarily for a purpose other than engaging in or receiving instruction in a physical fitness activity;

(B) Separately stated charges for the use of a discrete portion of an athletic or fitness facility, other than a pool, where such discrete portion of the facility does not by itself meet the definition of "athletic or fitness facility" in this subsection;

(C) Separately stated charges for services, such as advertising, massage, nutritional consulting, and body composition testing, that do not require the customer to engage in physical fitness activities to receive the service. The exclusion in this subsection (3)(g)(ii)(C) does not apply to personal training services and instruction in a physical fitness activity;

(D) Separately stated charges for physical therapy provided by a physical therapist, as those terms are defined in RCW 18.74.010, or occupational therapy provided by an occupational therapy practitioner, as those terms are defined in RCW 18.59.020, when performed pursuant to a referral from an authorized health care practitioner or in consultation with an authorized health care practitioner. For the purposes of this subsection (3)(g)(ii)(D), an authorized health care practitioner means a health care practitioner licensed under chapter 18.83, 18.25, 18.36A, 18.57, ~~((18.57A,))~~ 18.71, or 18.71A RCW;

(E) Rent or association fees charged by a landlord or residential association to a tenant or residential owner with access to an athletic or fitness facility maintained by the landlord or residential association, unless the rent or fee varies depending on whether the tenant or owner has access to the facility;

(F) Services provided in the regular course of employment by an employee with access to an athletic or fitness facility maintained by the employer for use without charge by its employees or their family members;

(G) The provision of access to an athletic or fitness facility by an educational institution to its students and staff. However, charges made by an educational institution to its alumni or other members of the public for the use of any of the educational institution's athletic or fitness facilities are a retail sale under this subsection (3)(g). For purposes of this subsection (3)(g)(ii)(G), "educational institution" has the same meaning as in RCW 82.04.170;

(H) Yoga, chi gong, or martial arts classes, training, or events held at a community center, park, school gymnasium, college or university, hospital or other medical facility, private residence, or any other facility that is not operated within and as part of an athletic or fitness facility.

(iii) Nothing in (g)(ii) of this subsection (3) may be construed to affect the taxation of sales made by the operator of an athletic or fitness facility, where such sales are defined as a retail sale under any provision of this section other than this subsection (3).

(iv) For the purposes of this subsection (3)(g), the following definitions apply:

(A) "Athletic or fitness facility" means an indoor or outdoor facility or portion of a facility that is primarily used for: Exercise classes; strength and conditioning programs; personal training services; tennis, racquetball, handball, squash, or pickleball; or other activities requiring the use of exercise or strength training equipment, such as treadmills, elliptical machines, stair climbers, stationary cycles, rowing machines, pilates equipment, balls, climbing ropes, jump ropes, and weightlifting equipment.

(B) "Martial arts" means any of the various systems of training for physical combat or self-defense. "Martial arts" includes, but is not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing, kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido, Kendo, tai chi, and mixed martial arts.

(C) "Physical fitness activities" means activities that involve physical exertion for the purpose of improving or maintaining the general fitness, strength, flexibility, conditioning, or health of the participant. "Physical fitness activities" includes participating in yoga, chi gong, or martial arts.

(4)(a) The term also includes the renting or leasing of tangible personal property to consumers.

(b) The term does not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term also includes the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6)(a) The term also includes the sale of prewritten computer software to a consumer, regardless of the method of delivery to the end user. For purposes of (a) and (b) of this subsection, the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

(b) The term "retail sale" does not include the sale of or charge made for:

(i) Custom software; or

(ii) The customization of prewritten computer software.

(c)(i) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(ii)(A) The service described in (c)(i) of this subsection (6) includes the right to access and use prewritten computer software to perform data processing.

(B) For purposes of this subsection (6)(c)(ii), "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

(7) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

(8)(a) The term also includes the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;

(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(b) A retail sale of digital goods, digital codes, or digital automated services under this subsection (8) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(c) For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

(9) The term also includes the charge made for providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal

property to perform as designed. For the purpose of this subsection (9), an operator must do more than maintain, inspect, or set up the tangible personal property.

(10) The term does not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(11) The term also does not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor does it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; (c) farmers for the purpose of providing bee pollination services; and (d) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

(12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

(13) The term does not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

(14) The term does not include the sale for resale of any service described in this section if the sale would otherwise constitute a "sale at retail" and "retail sale" under this section.

(15)(a) The term "sale at retail" or "retail sale" includes amounts charged, however labeled, to consumers to engage in any of the activities listed in this subsection (15)(a), including the furnishing of any associated equipment or,

except as otherwise provided in this subsection, providing instruction in such activities, where such charges are not otherwise defined as a "sale at retail" or "retail sale" in this section:

(i)(A) Golf, including any variant in which either golf balls or golf clubs are used, such as miniature golf, hitting golf balls at a driving range, and golf simulators, and including fees charged by a golf course to a player for using his or her own cart. However, charges for golf instruction are not a retail sale, provided that if the instruction involves the use of a golfing facility that would otherwise require the payment of a fee, such as green fees or driving range fees, such fees, including the applicable retail sales tax, must be separately identified and charged by the golfing facility operator to the instructor or the person receiving the instruction.

(B) Notwithstanding (a)(i)(A) of this subsection (15) and except as otherwise provided in this subsection (15)(a)(i)(B), the term "sale at retail" or "retail sale" does not include amounts charged to participate in, or conduct, a golf tournament or other competitive event. However, amounts paid by event participants to the golf facility operator are retail sales under this subsection (15)(a)(i). Likewise, amounts paid by the event organizer to the golf facility are retail sales under this subsection (15)(a)(i), if such amounts vary based on the number of event participants;

(ii) Ballooning, hang gliding, indoor or outdoor sky diving, paragliding, parasailing, and similar activities;

(iii) Air hockey, billiards, pool, foosball, darts, shuffleboard, ping pong, and similar games;

(iv) Access to amusement park, theme park, and water park facilities, including but not limited to charges for admission and locker or cabana rentals. Discrete charges for rides or other attractions or entertainment that are in addition to the charge for admission are not a retail sale under this subsection (15)(a)(iv). For the purposes of this subsection, an amusement park or theme park is a location that provides permanently affixed amusement rides, games, and other entertainment, but does not include parks or zoos for which the primary purpose is the exhibition of wildlife, or fairs, carnivals, and festivals as defined in (b)(i) of this subsection;

(v) Batting cage activities;

(vi) Bowling, but not including competitive events, except that amounts paid by the event participants to the bowling alley operator are retail sales under this subsection (15)(a)(vi). Likewise, amounts paid by the event organizer to the operator of the bowling alley are retail sales under this subsection (15)(a)(vi), if such amounts vary based on the number of event participants;

(vii) Climbing on artificial climbing structures, whether indoors or outdoors;

(viii) Day trips for sightseeing purposes;

(ix) Bungee jumping, zip lining, and riding inside a ball, whether inflatable or otherwise;

(x) Horseback riding offered to the public, where the seller furnishes the horse to the buyer and providing instruction is not the primary focus of the activity, including guided rides, but not including therapeutic horseback riding provided by an instructor certified by a nonprofit organization that offers national or international certification for therapeutic riding instructors;

(xi) Fishing, including providing access to private fishing areas and charter or guided fishing, except that fishing contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xii) Guided hunting and hunting at game farms and shooting preserves, except that hunting contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xiii) Swimming, but only in respect to (A) recreational or fitness swimming that is open to the public, such as open swim, lap swimming, and special events like kids night out and pool parties during open swim time, and (B) pool parties for private events, such as birthdays, family gatherings, and employee outings. Fees for swimming lessons, to participate in swim meets and other competitions, or to join a swim team, club, or aquatic facility are not retail sales under this subsection (15)(a)(xiii);

(xiv) Go-karting, bumper cars, and other motorized activities where the seller provides the vehicle and the premises where the buyer will operate the vehicle;

(xv) Indoor or outdoor playground activities, such as inflatable bounce structures and other inflatables; mazes; trampolines; slides; ball pits; games of tag, including laser tag and soft-dart tag; and human gyroscope rides, regardless of whether such activities occur at the seller's place of business, but not including playground activities provided for children by a licensed child day care center or licensed family day care provider as those terms are defined in RCW (~~(43.215.010)~~ 43.216.010);

(xvi) Shooting sports and activities, such as target shooting, skeet, trap, sporting clays, "5" stand, and archery, but only in respect to discrete charges to members of the public to engage in these activities, but not including fees to enter a competitive event, instruction that is entirely or predominately classroom based, or to join or renew a membership at a club, range, or other facility;

(xvii) Paintball and airsoft activities;

(xviii) Skating, including ice skating, roller skating, and inline skating, but only in respect to discrete charges to members of the public to engage in skating activities, but not including skating lessons, competitive events, team activities, or fees to join or renew a membership at a skating facility, club, or other organization;

(xix) Nonmotorized snow sports and activities, such as downhill and cross-country skiing, snowboarding, ski jumping, sledding, snow tubing, snowshoeing, and similar snow sports and activities, whether engaged in outdoors or in an indoor facility with or without snow, but only in respect to discrete charges to the public for the use of land or facilities to engage in nonmotorized snow sports and activities, such as fees, however labeled, for the use of ski lifts and tows and daily or season passes for access to trails or other areas where nonmotorized snow sports and activities are conducted. However, fees for the following are not retail sales under this subsection (15)(a)(xix): (A) Instructional lessons; (B) permits issued by a governmental entity to park a vehicle on or access public lands; and (C) permits or leases granted by an owner of private timberland for recreational access to areas used primarily for growing and harvesting timber; and

(xx) Scuba diving; snorkeling; river rafting; surfing; kiteboarding; flyboarding; water slides; inflatables, such as water pillows, water trampolines, and water rollers; and similar water sports and activities.

(b) Notwithstanding anything to the contrary in this subsection (15), the term "sale at retail" or "retail sale" does not include charges:

(i) Made for admission to, and rides or attractions at, fairs, carnivals, and festivals. For the purposes of this subsection, fairs, carnivals, and festivals are events that do not exceed twenty-one days and a majority of the amusement rides, if any, are not affixed to real property;

(ii) Made by an educational institution to its students and staff for activities defined as retail sales by (a)(i) through (xx) of this subsection. However, charges made by an educational institution to its alumni or other members of the general public for these activities are a retail sale under this subsection (15). For purposes of this subsection (15)(b)(ii), "educational institution" has the same meaning as in RCW 82.04.170;

(iii) Made by a vocational school for commercial diver training that is licensed by the workforce training and education coordinating board under chapter 28C.10 RCW; or

(iv) Made for day camps offered by a nonprofit organization or state or local governmental entity that provide youth not older than age eighteen, or that are focused on providing individuals with disabilities or mental illness, the opportunity to participate in a variety of supervised activities.

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

(1) RCW 18.57A.010 (Definitions) and 1979 c 117 s 17 & 1971 ex.s. c 30 s 7;

(2) RCW 18.57A.020 (Rules fixing qualifications and restricting practice—Interim permit—Applications—Discipline—Information about current professional practice) and 2016 c 42 s 2, 2015 c 252 s 11, 1999 c 127 s 2, 1998 c 132 s 13, 1996 c 191 s 39, 1993 c 28 s 1, 1992 c 28 s 1, & 1971 ex.s. c 30 s 8;

(3) RCW 18.57A.023 (Practice requirements—Military training and experience) and 2011 c 32 s 4;

(4) RCW 18.57A.025 (Application of uniform disciplinary act) and 1986 c 259 s 93;

(5) RCW 18.57A.030 (Limitations on practice—Scope of practice) and 2016 c 155 s 24, 2013 c 203 s 3, 1993 c 28 s 2, 1986 c 259 s 95, & 1971 ex.s. c 30 s 9;

(6) RCW 18.57A.035 (Limitation on practice—Remote sites) and 2013 c 203 s 1;

(7) RCW 18.57A.040 (Practice arrangements) and 2013 c 203 s 4, 1993 c 28 s 3, & 1991 c 3 s 152;

(8) RCW 18.57A.050 (Osteopathic physician's liability, responsibility) and 1993 c 28 s 4, 1986 c 259 s 97, & 1971 ex.s. c 30 s 11;

(9) RCW 18.57A.060 (Limitations on health care services) and 2000 c 171 s 21, 1973 c 77 s 20, & 1971 ex.s. c 30 s 12;

(10) RCW 18.57A.070 (Physician assistant acupuncturist—Licensure) and 2000 c 93 s 41 & 1977 ex.s. c 233 s 1;

(11) RCW 18.57A.080 (Signing and attesting to required documentation) and 2013 c 203 s 5 & 2007 c 264 s 2;

(12) RCW 18.57A.090 (Pain management rules—Repeal—Adoption of new rules) and 2010 c 209 s 4;

(13) RCW 18.57A.100 (Down syndrome—Parent information) and 2016 c 70 s 4;

(14) RCW 18.57A.800 (Opioid drug prescribing rules—Adoption) and 2017 c 297 s 5; and

(15) RCW 18.57A.810 (Opioid drugs—Right to refuse) and 2019 c 314 s 6.

NEW SECTION. Sec. 60. The following acts or parts of acts are each repealed:

(1) RCW 18.71A.035 (Limitation on practice—Remote sites) and 2013 c 203 s 2; and

(2) RCW 18.71A.040 (Commission approval required—Application—Fee—Discipline) and 2013 c 203 s 7.

NEW SECTION. Sec. 61. Sections 1 through 10 and 60 of this act take effect July 1, 2021.

NEW SECTION. Sec. 62. Sections 12 through 59 of this act take effect July 1, 2022.

Passed by the House February 16, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 19, 2020.

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

AUTHENTICATION

I, Kathleen Buchli, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2020 session (66th Legislature), chapters 1 through 80, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 24th day of April, 2020.

A handwritten signature in black ink, appearing to read "Kathleen Buchli". The signature is written in a cursive style with a large initial "K".

Kathleen Buchli
Code Reviser